

DISTRICT COURT, ARAPAHOE COUNTY, COLORADO Court Address: 7325 S Potomac St, Centennial, CO, 80112	DATE FILED: November 4, 2015 5:01 PM CASE NUMBER: 2015CV32600 <p style="text-align: center;">⚠ COURT USE ONLY ⚠</p>
Plaintiff(s) STATE OF COLORADO et al. v. Defendant(s) COUNTY LINE VACUUM APPLIANCE INC et al.	
Case Number: 2015CV32600 Division: 14 Courtroom:	
Order: ORDER ON PLAINTIFFS MOTION FOR EX-PARTE TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION AND ASSET FREEZE	

The motion/proposed order attached hereto: GRANTED WITH AMENDMENTS.

The Court is only granting a Temporary Restraining Order, not a Preliminary Injunction, at this time. The parties are to contact the Court on November 5 and inform the Court which day is selected for the Preliminary Injunction hearing.

Issue Date: 11/4/2015



CHRISTOPHER CHARLES CROSS
 District Court Judge

<p>DISTRICT COURT, COUNTY OF ARAPAHOE, STATE OF COLORADO 7325 S. Potomac St. Centennial, Colorado 80112</p> <p>STATE OF COLORADO, ex rel. CYNTHIA H. COFFMAN, ATTORNEY GENERAL</p> <p>Plaintiff,</p> <p>v.</p> <p>COUNTY LINE VACUUM & APPLIANCE, INC. DBA AAAA TELEVISION ELECTRONIC VACUUM & APPLIANCE and MUHAMMED MURIB, AND OMAR MURIB, INDIVIDUALLY</p> <p>Defendants.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
	<p>Case No.</p> <p>Div.:</p>
<p style="text-align: center;">(PROPOSED) ORDER ON PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION AND ASSET FREEZE</p>	

The Court, having reviewed the Complaint, Plaintiff's Motion for Temporary Restraining Order, Preliminary Injunction and Asset Freeze and being fully advised in the premises,

FINDS and CONCLUDES that a Temporary Restraining Order should be entered for the following reasons:

1. This Court has jurisdiction in the matter presented herein by virtue of Colo. Rev. Stat. § 6-1-110(1) (2015) and Rule 65, C.R.C.P.

2. This Court is expressly authorized to issue a Temporary Restraining Order to enjoin ongoing violations of the Colorado Consumer Protection Act (“CCPA”) by Colo. Rev. Stat. § 6-1-110(1):

Whenever the attorney general or a district attorney has cause to believe that a person has engaged in or is engaging in any deceptive trade practice listed in section 6-1-105..., the attorney general ... may apply for and obtain, in an action in the appropriate district court of this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedure, prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof. The court may make such orders or judgments as may be necessary to prevent the use or employment by such person of any such deceptive trade practice or which may be necessary to completely compensate or restore to the original position of any person injured by means of any such practice or to prevent any unjust enrichment by any person through the use or employment of any deceptive trade practice.

Colo. Rev. Stat. § 6-1-110(1).

3. Plaintiffs have shown from specific facts by affidavit or by testimony that Defendants’ deceptive practices are injurious to the public and that continued violations, if not enjoined, will cause immediate and irreparable injury, loss or damage. *Baseline Farms Two, LLP v. Hennings*, 26 P.3d 1209, 1212 (Colo. App. 2001); *Lloyd A. Fry Roofing Co. v. State Dept. of Air Pollution*, 553 P.2d 200 (Colo. 1976); *Rathke v. MacFarlane*, 648 P.2d 648 (Colo. 1982). Immediate and irreparable injury to additional consumers will occur without a temporary restraining order because Defendants’ attract a significant number of consumers to their repair business through their deceptive advertising, and inflict additional harm on consumers through false claims regarding repairs.

4. Defendants will suffer no undue hardship by the entry of a temporary restraining order because Defendants have no right to continue to engage in unlawful and deceptive trade practices in violation of the CCPA and the CCSA, or to collect money from consumers as a result of such unlawful and deceptive conduct. Furthermore, Defendants have no right to unjustly benefit from their unlawful behavior. Without an injunction, Plaintiff will be unable to adequately protect the public from Defendants' ongoing illegal activities.

5. In view of the continuing and serious harm to consumers as outlined in the evidence and affidavits submitted by Plaintiff, the entry of a temporary restraining order is necessary and appropriate.

6. C.R.C.P. 65(b) allows the entry of a temporary restraining order without written or oral notice to Defendants if it clearly appears from the facts shown by affidavit that immediate and irreparable injury, loss or damage will result from giving said notice. In view of the continuing and serious harm to consumers as outlined in the affidavit and testimony submitted by Plaintiff, and in light of Defendants' lack of responsiveness to Plaintiff during its investigation, the entry of a temporary restraining order without notice to Defendants is necessary and appropriate.

7. Pursuant to C.R.C.P. Rule 65(c), Plaintiff is not required to provide a security bond.

IT IS HEREBY ORDERED, PURSUANT TO C.R.S. § 6-1-110(1), AS FOLLOWS:

A. Defendants and their officers, directors, agents, servants, employees, independent contractors and any other persons in active concert or participation with Defendants who receive actual notice of the Court's order are **ENJOINED** from:

1. Engaging in the commercial repair of consumer goods, including, but not limited to, soliciting consumer goods for repair, accepting consumer goods for repair, accepting consumer goods for repair from outside sources, and repairing consumer goods.

2. Advertising any form of consumer goods repair, including, but not limited to “in-home” television repair, television repair, projector repair, audio or stereo repair, vacuum repair, sewing machine repair, and any form of consumer electronic repair.

B. Defendants and their officers, directors, agents, servants, employees, independent contractors and any other persons in active concert or participation with Defendants who receive actual notice of the Court’s order, are **REQUIRED** to:

1. Deactivate within 48 hours of this Order, all internet sites, internet advertising, and third-party internet advertising, related to Defendants’ repair business, including, but not limited to:

a) All internet sites and all internet advertising, including advertising through third-parties, related to “in-home” television repair, television repair, projector repair, audio or stereo repair, vacuum repair, sewing machine repair, and any form of consumer electronic repair;

b) aaaateva.com; 303television.com; tvrepairdenvermetro.com; projectorrepairdenver.com; stereorepairdenver.com; sewingmachinerepairdenver.com; and 303vac.com.

2. Provide a status report and certification to the Court four (4) days after the entry of this Order that Defendants have complied and are complying with sections A and B above. Within the status report, Defendants shall provide a complete list of all consumers, who as of the date of this Order, have items at AAAA TEVA waiting for repair, being repaired, or items waiting for pickup or delivery. The list shall be completed pursuant to the instructions below:

a) UNREPAIRED ITEMS:

1) Items that were picked up by Defendants:

i. Within the status report, Defendants shall include the names and contact information of all consumers whose repair items were brought into the AAAA TEVA store by AAAA TEVA, and/ or its

mobile technicians, prior to receiving notice of this Order, and whose repair items are currently unrepaired.

ii. For these consumers, the report shall state the consumers name, their contact information, description of the item that was picked up by AAAA TEVA and/or its mobile technicians for repair, the date that AAAA TEVA and/or its mobile technicians picked up the item, and all charges paid by the consumer to date.

iii. Defendants shall contact all consumers whose repair items were brought into the store by AAAA TEVA and/or its mobile technicians, and schedule a return of the repair item without charge to the consumer. The status report shall state the date the consumer was contacted, and the date for the scheduled return of the consumers' items.

iii. The consumer will be informed that their name and contact information is being provided to the Court and the Attorney General and that they may be entitled to a refund of any charges paid at a later time.

2) Items that were brought by the consumer to the AAAA TEVA store:

i. Within the status report, Defendants shall include the names and contact information of all consumers whose repair items were brought into the AAAA TEVA store by the consumer him or herself, prior to receiving notice of this Order, and whose repair items are currently unrepaired.

ii. For these consumers, the report shall state the consumers name, their contact information, description of the item that was brought to the AAAA TEVA store, the date that the consumer brought the item to the store, and all charges paid by the consumer to date.

iii. Defendants shall contact all consumers whose repair items were brought into the AAAA TEVA store by the consumer him or herself, and inform them that they must pick up their repair item. There shall be no additional charges related to the pickup of the repair item. The status report shall state the date the consumer was

contacted, and the date for the scheduled return of the consumers' items, or the date that the item was returned.

iv. The consumer will be informed that their name and contact information is being provided to the Court and the Attorney General and that they may be entitled to a refund of any charges paid at a later time.

b) Repaired items:

1) Repaired items that were picked up by Defendants

i. Within the status report, Defendants shall include the names and contact information of all consumers whose repair items were brought into the AAAA TEVA store by AAAA TEVA, and/ or its mobile technicians, prior to receiving notice of this Order, and whose repair items are currently repaired waiting for delivery.

ii. For these consumers the report shall state the consumers name, their contact information, description of the item that was picked up by AAAA TEVA and/or its mobile technicians for repair, the date that AAAA TEVA and/or its mobile technicians picked up the item, all charges paid by the consumer, showing both the diagnostic fee paid and any additional charges.

iii. Defendants shall contact all consumers whose repair items were brought into the store by AAAA TEVA and/or its mobile technicians, and schedule a return of the repair item. The consumer shall not be charged for delivery of the repaired item. The status report shall state the date the consumer was contacted, and the date for the scheduled return of the consumers' items.

2) Repaired items that were brought by the consumer to the AAAA TEVA store

i. Within the status report, Defendants shall include the names and contact information of all consumers whose repair items were brought into the AAAA TEVA store by the consumer him or herself, prior to receiving notice of this Order, and whose repair items are currently repaired waiting for pickup.

ii. For these consumers, the report shall state the consumers name, their contact information, description of the item that was brought to the AAAA TEVA store, the date that the consumer brought the item to the store, all charges paid by the consumer, including the diagnostic fee paid...

iii. Defendants shall contact all consumers whose repair items were brought into the store by AAAA TEVA store by the consumer him or herself, and inform them that they must pick up their repair item. The consumer shall not be charged for picking up the repaired item. The status report shall state the date the consumer was contacted, and the date for the scheduled pickup of the consumers' items, or the date that the item was picked up.

a) Items currently in the process of being repaired

i. Pursuant to the terms of 2)a), Defendants shall not continue with any repairs currently pending, or undertake repairs or delivery prior to the Preliminary Injunction hearing.

ii. For any consumers whose items were being repaired at the time of this Order, yet not completed, the report shall state the consumers name, their contact information, description of the item that was brought to the AAAA TEVA store, whether the item was picked up by AAAA TEVA or brought to the AAAA TEVA store by the consumer, the date the item was picked up by AAAA TEVA or brought to the AAAA TEVA store by the consumer, all charges paid by the consumer, showing both the diagnostic fee paid and any additional charges.

iii. All unfinished repairs shall be left in their present condition as of the time Defendants are served notice of this Order. A determination of how to proceed with items pending repair will be made by the Court at the time of the Preliminary Injunction hearing.

3. Within two business days after the status report has been filed, and prior to the Preliminary Injunction hearing, Defendants shall allow investigators from the Colorado Attorney General's Office to visually inspect and photograph all

areas of the AAAA TEVA store, including its basement, to insure compliance with this Order's instructions regarding the return of repair items. Defendants shall direct the investigators to any unfinished repair items and allow the investigators to photograph those items.

4. Produce photocopies, or provide access to, all documents that were originally produced in response to the Attorney General's CID subpoena for documents that was served to Defendants on February 23, 2015.

ASSET FREEZE REQUEST UNDER C.R.S. § 6-1-110(1) IS GRANTED

Given the broad remedial scope of the CCPA and the conduct of Defendants, the Court hereby enters an ORDER pursuant to C.R.S. § 6-1-110(1) that freezes the Defendants corporate assets in order to preserve effective final relief for consumers, as follows:

A. Defendants are **ENJOINED** from transferring, gifting, assigning, encumbering, selling, dissipating, or otherwise disposing of the following vehicles which are owned by the corporate Defendants:

- 1) White, 2014, Mercedes Sprinter, VIN: WD3PE8DC3E5858652. Colorado license plate number: 761QKN.
- 2) White, 2014, Mercedes Sprinter, VIN: WD3PE8DC9E5870045. Colorado license plate number 333QKR.
- 3) Grey, 2014, Mercedes ML3, VIN: 4JGDA5HB8EA365444. Colorado license plate number 473QMD.
- 4) Yellow, 2006, GMC Van, VIN: 1GDHG31U461902134. Colorado license plate number 841VNU.
- 5) White 2014, Toyota, Utility vehicle, VIN: JTEBU5JR7E5169641. Colorado license plate: 701 QBW.
- 6) Any other vehicles owned by the corporate Defendants.

ENTERED this ____ day of _____, 2015, at ____ o'clock.

In accordance with Rule 65(b) of the Colorado Rules of Civil Procedure, this Order expires by its terms within such time after entry not to exceed fourteen calendar days, as the Court fixes, unless within the time so fixed, the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period.

Subject to the foregoing and unless otherwise directed by the Court, this Order shall expire on _____, 2015 at _____ o'clock.

BY THE COURT:

District Court Judge

Attachment to Order - 2015CV32600