

DISTRICT COURT, ELBERT, COLORADO 751 Ute Ave. PO Box 232 Kiowa, Colorado 80117	
STATE OF COLORADO, ex rel. CYNTHIA H. COFFMAN, ATTORNEY GENERAL, Plaintiffs, v. SPENCER OLGUIN and JOHN OLGUIN, Defendants.	▲ COURT USE ONLY ▲
Attorneys for Plaintiff: CYNTHIA H. COFFMAN Attorney General JAY B. SIMONSON, 24077* First Assistant Attorney General MARK T. BAILEY, *36861 Assistant Attorney General LAUREN DICKEY, *45773 1300 Broadway, 7 th Floor Denver, CO 80203 (720)508-6209 (720)508-6040 Fax *Counsel of Record	Case No.: Div.:
COMPLAINT	

Plaintiff, the State of Colorado, upon relation of Cynthia H. Coffman, Attorney General for the State of Colorado, by and through undersigned counsel, states and alleges against Defendants Spencer Olguin and John Olguin as follows:

INTRODUCTION

This is an action brought by the State of Colorado pursuant to the Colorado Consumer Protection Act, §§ 6-1-101 *et seq.*, C.R.S. (2015) (“CCPA”), to enjoin and restrain Defendants from engaging in certain unlawful deceptive trade practices, for statutorily mandated civil penalties, and for disgorgement, restitution, and other relief as provided in the CCPA.

PARTIES

1. Cynthia H. Coffman is the duly elected Attorney General of the State of Colorado and is authorized under C.R.S. § 6-1-103 to enforce the provisions of the CCPA.
2. Defendants Spencer and John Olguin are brothers who do business under various business names, including Prestige Carpet and Upholstery Cleaning, Prestige Carpet & Upholstery Care, Prestige Specialty Cleaning, and Prestige Carpet & Cleaning Co.
3. Defendants' Website, www.prestigecarpetcleaning.org, lists their business address as 3489 W. 72nd Ave Suite 202, Westminster, Colorado, 80030. However, Defendants do not do business out of this address. Defendants' true place of business appears to be at 8120 Sheridan, #A-306, Westminster, Colorado.
4. Defendant Spencer Olguin, on information and belief, resides at 9300 Julian Way, Westminster, Colorado 80031.
5. Defendant John Olguin, on information and belief, resides at 3250 Benton St., Apt. 208, Wheat Ridge, Colorado 80212. Defendant John Olguin works with his brother Spencer as the only known carpet cleaners working for Prestige.

JURISDICTION AND VENUE

6. Pursuant to C.R.S. §§ 6-1-103 and 6-1-110, this Court has jurisdiction to enter appropriate orders prior to and following an ultimate determination of liability.
7. The violations alleged herein occurred, in part, in Elbert County, Colorado. Therefore, venue is proper in Elbert County pursuant to C.R.S. § 6-1-103 and Colo. R. Civ. P. 98 (2015).

RELEVANT TIMES

8. This action is timely brought pursuant to C.R.S. § 6-1-115 in that it is brought within three years of the date on which the last in a series of false, misleading, and deceptive acts or practices occurred and/or were discovered.

PUBLIC INTEREST

9. Through the unlawful practices of their business or occupation, Defendants have deceived, misled, and financially injured consumers in Colorado. Furthermore, given Defendants' past criminal behavior, which has been violent as well as deceptive and fraudulent in nature, Defendants present a danger to

consumers. In addition, Defendants have taken market share from competitors who do not engage in such deceptive trade practices. Therefore, these legal proceedings are in the public interest and are necessary to safeguard citizens from Defendants' unlawful business activities.

PERSONAL LIABILITY

10. At all relevant times, Defendants Spencer and John Olguin conceived of, directed, participated in, and controlled the deceptive business practices alleged herein, and are personally liable for all such deceptive trade practices.

ACTS OF AGENTS

11. Whenever reference is made in this Complaint to any act or practice of Defendants, such allegation shall be deemed to mean that the owners, employees, agents, and representatives of such Defendants performed, directed, or authorized such act or practice on behalf of said Defendants, while actively engaged in the scope of their duties.

GENERAL ALLEGATIONS

12. Defendants provide residential carpet cleaning services in Colorado.

13. Defendants use telemarketing calls to solicit Colorado consumers in violation of the Colorado No-call List Act, C.R.S. § 6-1-902, *et seq.* Consumers have complained about receiving calls from Defendants despite their inclusion on the Colorado do-not-call list, and Defendant Spencer Olguin has admitted to the State's Investigator, Kenneth King, that Defendants place calls directly from the telephone book without cross-referencing the no-call list. Defendants have committed more than three violations in a single month.

14. Defendants are operating in violation of Colorado's telemarketing registration law, C.R.S § 6-1-301, *et seq.*, which provides that "(no) commercial telephone seller shall conduct business in this state without having registered with the attorney general at least ten days prior to the conduct of such business."

15. Defendants have operated without a proper business license since December 31, 2009 when the Westminster City's Sales Tax Division revoked Prestige's license to operate for failure to file a tax return.

16. Defendants overcharge for services after failing to disclose that their initial quoted price will not be honored.

17. Defendants lead consumers to believe their services will cost less than the price defendants eventually charge.
18. Defendants persuade consumers to agree to additional services and fail to disclose the cost of these additional services until after the cleaning is complete.
19. Defendants engage in intimidation. Defendants argue with consumers and mislead consumers with claims that the consumer agreed to the additional charges.
20. Defendants offer to settle with consumers for a lower price if a consumer is unwilling to pay for all of the additional charges disclosed after the work is complete.
21. Defendants' overcharging and intimidation of witnesses has required the involvement of law enforcement to de-escalate disputes.
22. Defendants also make false and misleading statements about their qualifications and ability to perform certain projects, such as flood remediation.
23. Defendants submit invoices and attempt to charge consumers for work not performed.
24. Defendants Spencer Olguin and John Olguin both have extensive criminal histories. Since 1992, Spencer Olguin has been arrested at least eight times for charges ranging from theft and assault to bribery and forgery. Since 1987, John Olguin has been arrested at least twelve times for a variety of charges, including felony assault, damage to property, disturbing the peace, and contempt of court.
25. In November 2014, Defendant Spencer Olguin stole \$55,000 from an at-risk elderly woman named Florence Olson, who has dementia and for whom Olguin claims he provided carpet cleaning services. Over the course of one week, Spencer Olguin obtained four checks from Mrs. Olson in the amounts of \$5,873.36, \$14,773.36, \$18,752.37, and \$15,690.93. He has pled guilty to a felony in connection with this theft.
26. When Elbert County Peace Officers first confronted Spencer Olguin about the checks, he claimed that they were payment of three months' worth of work that he had done on Mrs. Olson's house. However, at the time the checks were cashed, there was no indication of any significant improvements or cleaning to the house. When recently questioned by Investigator King, Spencer Olguin claimed that the checks were gifts from Mrs. Olson.

27. Defendants represent, on the internet and in written flyers, that Prestige's carpet cleaners are "certified." When questioned by Investigator King, Spencer Olguin stated that the State (of Colorado) does not require carpet cleaners to be certified. Spencer Olguin further admitted that neither he nor his brother, John Olguin, have received a certification in carpet cleaning.

28. Defendants advertise on their web page and on flyers that they are insured through USAA. When questioned by Investigator King, Spencer Olguin admitted that he has no insurance for his business activities through USAA.

29. Defendants represent on their webpage and on flyers that they are "bonded." They are not. Furthermore, it is unlikely that Defendants could ever be bonded given their criminal histories.

FIRST CLAIM FOR RELIEF

(Makes false or misleading statements of fact concerning the price of goods, services, or property or the reasons for, existence of, or amounts of price reductions in violation of C.R.S. § 6-1-105(l))

30. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 29 of this Complaint.

31. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants have knowingly made false or misleading statements of fact concerning the price of their goods and services and the existence of and amounts of price reductions.

32. Defendants contact consumers by phone and claim they are offering a special price on carpet cleaning for a low rate on each room or for the total home. Defendants' representations concerning the price of their services and the reasons for their claimed reductions are false. Defendants do not honor the price they represent on the phone. Once inside consumers' homes, Defendants identify additional services to be provided and make false and misleading statements about the amount these services will cost. Defendants present a bill at the end of their cleaning for substantially more than represented.

33. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

SECOND CLAIM FOR RELIEF

(Advertises goods, services, or property with intent not to sell them as advertised in violation of C.R.S. § 6-1-105(i))

34. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 29 of this Complaint.

35. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants advertised their services with intent not to sell them as advertised. Defendants know when quoting the initial low price that they will not perform the services for that price. Defendants know that they will add undisclosed additional charges and will be charging more than the original advertisement.

36. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

THIRD CLAIM FOR RELIEF

(Fails to disclose material information concerning goods, services, or property which information was known at the time of an advertisement or sale if such failure to disclose such information was intended to induce the consumer to enter into a transaction in violation of C.R.S. § 6-1-105(u))

37. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 29 of this Complaint.

38. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants have failed to disclose material information concerning goods, services, or property at the time of sale. Such failures to disclose material information were intended by Defendants to induce consumers to enter into a transaction with Defendants.

39. When stating a price during their initial solicitations, defendants fail to disclose to consumers that they will incur substantial additional charges.

40. When representing the price of their “pet guard” at \$39.95, defendants fail to disclose that this price is for each pet stain spot treated.

41. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

FOURTH CLAIM FOR RELIEF

(Knowingly makes a false representation as to the source, sponsorship, approval, or certification of goods, services, or property in violation of C.R.S. § 6-1-105(b))

42. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 29 of this Complaint.

43. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants knowingly made false representations as to the “certification” of their technicians.

44. Defendants knowingly made false representations as to sponsorship, or approval by United Services Automobile Association (USAA).

45. Defendants falsely represent during phone solicitations that they have a high rating with the Better Business Bureau.

46. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

FIFTH CLAIM FOR RELIEF

(Represents that goods, food, services, or property are of a particular standard, quality, or grade, or that goods are of a particular style or model, if he knows or should know that they are of another in violation of C.R.S. § 6-1-105(g))

47. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 29 of this Complaint.

48. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants have represented that their services and goods were of a particular standard, quality or grade, and Defendants knew or should have known that their services and goods were of another.

49. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

SIXTH CLAIM FOR RELIEF

(Knowingly makes a false representation as to the characteristics, or benefits of services or a false representation as to the approval, status, affiliation, or connection of a person therewith in violation of C.R.S. § 6-1-105(e))

50. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 29 of this Complaint.

51. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants have knowingly made false

representations as to their services as well as false representations as to affiliation or connection.

52. Defendants falsely represent that they are “insured,” “certified,” and “bonded” knowing these representations to be untrue.

53. Defendants falsely represent, either expressly or by implication, that they are affiliated or connected to USAA when they are not.

54. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

SEVENTH CLAIM FOR RELIEF

(Fails to obtain all governmental license or permits required in violation of C.R.S. § 6-1-105(z))

55. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 29 of this Complaint.

56. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants have failed to obtain required licenses to operate.

57. All businesses operating in Westminster, Colorado must register with the city and must obtain and maintain a license to operate. Defendants, through Spencer Olguin, who identified himself as the “owner” of the Prestige when applying for licensure, obtained a license on August 2001 listing an address of 7255 Irving Street #213, in Westminster. Olguin subsequently filed change of addresses listing 8020 N. Federal Blvd #8 and then 9300 Julian Way, both within the city of Westminster.

58. The Westminster Sales Tax Division revoked Defendants’ license to operate as of December 31, 2009 for failing to file a tax return.

59. Defendants have continued to operate without the required governmental license.

60. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

EIGHTH CLAIM FOR RELIEF

(Violations of Colorado No-Call Law C.R.S. § 6-1-901 et. al.)

61. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 29 of this Complaint.

62. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants have made or caused to be made telephone solicitations to the telephones of residential subscribers or wireless subscribers in Colorado who have added their telephone numbers and zip codes to the Colorado no-call list in accordance with rules promulgated under section 6-1-905.

63. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers and committed a deceptive trade practice as set forth at C.R.S. section 6-1-105(tt).

NINTH CLAIM FOR RELIEF

(Violations of Colorado’s Telemarketer Registration Law C.R.S. 6-1-301-305)

64. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 29 of this Complaint.

65. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants failed to register as a telemarketer despite relying heavily upon telemarketing to solicit customers.

66. Within the legislative declaration for the Colorado Telemarketing Registration Law, the Colorado general assembly recognized that “the use of telephones for commercial solicitation...entails special risks and poses the potential for abuse” and “has caused substantial financial losses to thousands of consumers, and, particularly, elderly, homebound, and otherwise vulnerable consumers, and is a matter of vitally affecting the public interest...”

67. Defendants knowingly telemarketed to the elderly, homebound, and vulnerable consumers without registering in accordance with C.R.S. 6-1-303.

68. A commercial telephone seller engages in unlawful telemarketing practice, when, in the course of any commercial telephone solicitation, the seller conducts business as a commercial telephone seller without having registered with the attorney general , as required by section 6-1-303. C.R.S. § 6-1-105(cc.)

69. Defendants, as a result of their violation of the Colorado Telemarketing Registration Law, are subject the injunction provisions of 6-1-110, the civil penalties provision of 6-1-112, and the damages and attorney fees provisions of 6-1-113.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for judgment against Defendants and the following relief:

- A. An order declaring Defendants' above-described conduct to be in violation of the CCPA, C.R.S. § 6-1-105(1) (l), (i), (u), (b), (g), (e), (z), (cc), and (tt).
- B. An order permanently enjoining Defendants, their officers, directors, successors, assigns, agents, employees, and anyone in active concert or participation with Defendants with notice of such injunctive orders, from engaging in any deceptive trade practices as defined in and proscribed by the CCPA and as set forth in this Complaint.
- C. Additional appropriate orders necessary to prevent Defendants' continued or future deceptive trade practices.
- D. A judgment in an amount to be determined at trial for restitution, disgorgement, or other equitable relief pursuant to § 6-1-110(1), C.R.S.
- E. An order requiring Defendants to forfeit and pay to the General Fund of the State of Colorado, civil penalties in an amount not to exceed \$2000 per violation pursuant to § 6-1-112(1), C.R.S., or \$10,000 per violation pursuant to § 6-1-112(3), C.R.S.
- F. An order requiring Defendants to pay the costs and expenses of this action incurred by the Attorney General, including, but not limited to, Plaintiff's attorney fees, pursuant to § 6-1-113(4), C.R.S.
- G. Any such further orders as the Court may deem just and proper to effectuate the purposes of the CCPA.

Respectfully submitted this 27th Day of October, 2015.

CYNTHIA H. COFFMAN
Attorney General

Jay B. Simonson
MARK T. BAILEY, 36861*

Assistant Attorney General
JAY B. SIMONSON, 24077*
First Assistant Attorney General
Consumer Protection Section
Attorneys for Plaintiff

*Counsel of Record

Plaintiff's Address:

Ralph L. Carr
Colorado Judicial Center
1300 Broadway, 7th Floor
Denver, CO 80203