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GLENN BERMAN, JSC, Ch.

CIVIL RIGHTS
N.J. SUPERIOR COURT
MIDDLESEX COUNTY
2011 NOV - 1 P. 10 31

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY
DOCKET NO. MID-C-199-11

PAULA T. DOW, Attorney General of the State of
New Jersey, and THOMAS R. CALCAGNI,
Director of the New Jersey Division of Consumer
Affairs,

Plaintiffs,

v.

ALL CARE CHIMNEY CORPORATION,
MICHAEL LYON, and JANE AND JOHN
DOES 1-10, individually and as owners, officers,
directors, shareholders, founders, managers,
agents, servants, employees representatives and/or
independent contractors of ALL CARE
CHIMNEY CORPORATION and XYZ
CORPORATIONS, 1-10,

Defendants.

Civil Action

**ORDER GRANTING PRELIMINARY
INJUNCTIVE AND OTHER RELIEF**

THIS MATTER being brought before the Court on the application of plaintiffs Paula T. Dow, Attorney General of the State of New Jersey, and Thomas R. Calcagni, Director of the New Jersey Division of Consumer Affairs (collectively, "Plaintiffs"), by Cathleen O'Donnell and Glenn

T. Graham, Deputy Attorneys General, appearing, and the Court having considered the papers submitted and argument in support herein; and for good cause shown;

IT IS on this 11 day of November, 2011 **ORDERED** that defendants All Care Chimney Corporation ("All Care Chimney") and Michael Lyon ("Lyon") (collectively, "Defendants") are preliminarily enjoined and restrained from:

- A. Engaging in, continuing to engage in, or doing any acts or practices in violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), the Contractors' Registration Act, N.J.S.A. 56:8-136 et seq., the Regulations Governing Home Improvement Practices, N.J.A.C. 13:45A-16.1 et seq. ("Home Improvement Regulations"), and the Regulations Governing Contractor Registration, N.J.A.C. 13:45A-17.1 et seq. ("Contractor Registration Regulations"), including, but not limited to, the acts and practices alleged in the Verified Complaint;
- B. Engaging in the advertisement, offering for sale and sale of merchandise, specifically home improvement contractor services ("HIC Services"), to consumers within the State of New Jersey ("New Jersey"), whether or not through direct mailings, unsolicited telephone calls and/or door-to-door solicitations;
- C. Removing, selling, encumbering, transferring or engaging in any act of disposition of any assets of the Defendants including, but not limited to, all deposits or monies paid by consumers for HIC Services;
- D. Destroying, concealing, altering, transferring, disposing or removing in any manner, directly or indirectly, any books or records, information stored in computer-maintained form (such as electronic mail) and any other "document," as that term is defined in R. 4:18-1(a), in their possession, subject to their control or available to them, that directly or indirectly relate to the advertisement, offering for sale and/or sale of HIC Services; and
- E. Failing to make and/or keep any books or records, information stored in computer-maintained form (such as electronic mail) and any other "document," as that term is defined in R. 4:18-1(a) that directly or indirectly relate to the advertisement, offering for sale and/or sale of HIC Services.

AND IT IS FURTHER ORDERED that:

- A. Within 10 days of the date of this Order, ^{A * as} a Receiver be appointed, at the Defendants' expense, in accordance with N.J.S.A. 56:8-8 and 56:8-9, to assume

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* Receiver appointed is Mrs. Lisa P. Parker
@ Helling Lindsey Esq (973-621-9020)

control over the assets of Defendants, render a full accounting and thereafter sell and/or convey such assets under the direction of the Court in order to restore any person who has suffered damages, whether named in the Verified Complaint or not, as a result of the unlawful acts of Defendants; and

- B. A freeze of all assets in which of Defendants hold a legal or equitable interest including, but not limited to, real property, securities, bonds, notes and monies held in any of their bank accounts, money market accounts, certificates of deposit or safe deposit boxes or held in petty cash, which includes preventing Defendants from removing, selling, encumbering, assigning, transferring or engaging in other acts of disposition of any such assets.

AND IT IS FURTHER ORDERED that:

- A. Within 7 days, Defendants must identify in writing by name, address and telephone number, if available, all consumers in New Jersey for whom they have advertised, offered for sale, sold and/or performed HIC Services since October 3, 2011 including, but not limited to, the execution of contracts for HIC Services and/or any application for municipal permits; and
- B. Within 7 days, Defendants must provide copies of any contracts for HIC Services entered into with consumers in New Jersey since October 3, 2011.

AND IT IS FURTHER ORDERED that:

- A. Any contracts for HIC Services entered between Defendants and consumers in New Jersey after October 3, 2011 are declared null and void.

AND IT IS FURTHER ORDERED that:

- A. Plaintiffs shall impound and obtain possession of all commercial and other vehicles utilized by Defendants in their advertisement, offering for sale, sale and/or performance of HIC Services for consumers In New Jersey; and
- B. Defendants turn over such vehicles to Plaintiffs within 7 days of the date of this Order.

AND IT IS FURTHER ORDERED that:

- A. Defendants shall provide Plaintiffs with written notification of any travel into New Jersey for purposes of any contact with any New Jersey consumer (past, present or prospective) concerning Defendants' advertisement, offering for sale, sale and/or performance of HIC Services.

AND IT IS FURTHER ORDERED that:

- A. If the Defendants refuse or fail to comply with any provision of this Order in any manner, Plaintiffs shall immediately seek relief pursuant to R. 1:10-3, which may include the issuance of a bench warrant for Lyon's arrest.

AND IT IS FURTHER ORDERED that:

Defendants shall file a written Answer to the Verified Complaint and proof of service by

~~_____~~, 2011. *Case Management Conference: 12/5/11-10 am*

AND IT IS FURTHER ORDERED that:

A copy of this Order shall be served on all counsel of record within seven (7) days of the date hereof.



HON. GLENN BERMAN, J.S.C.