

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,

Plaintiff,


vs.

JOSEPH KAISER, and HEIDI M. KAISER, husband and wife, as members of a marital community with named defendant, G. HOBUS INVESTMENTS, LLC; BOBO BUYS REAL ESTATE, LLC; PRE FLOP LLC; UNCLAIMED FUNDS, Inc., a Washington Corporation,

Defendants.

NO. 07-2-08789-3 SEA

ORDER IMPOSING PENALTIES,
AND RESTITUTION
~~(PROPOSED)~~

THIS MATTER came before the Court on April 17, 2009, on Plaintiff State of Washington's Motion for Penalties and Restitution. Plaintiff appeared through James T. Sugarman and Jason E. Bernstein, Assistant Attorneys General. Defendants appeared (*pro se*) (~~through their attorney,~~ ) The Court having considered the previous Order Granting Partial Summary Judgment, the Findings of Fact and Conclusions of Law, the Order Granting Injunctive Relief, all briefing and exhibits submitted by the parties, the records and files herein, and being fully advised; now, therefore finds that:

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1 **Penalties:**

2 Defendants having been found to engage in multiple and repeated violations of the
3 Consumer Protection Act, RCW 19.86.020, shall forfeit and pay the following civil penalties
4 pursuant to RCW19.86.140:

- 5
- 6 1. **\$140,000** (or 7000) for Defendants' creation and participation in
7 70 unfair and deceptive overage transactions;
 - 8 2. **\$66,000** (or 3300) for Defendants' creation and participation in
9 33 unfair and deceptive partial interest deals;
 - 10 3. **\$8,000** (or 400) for Defendants' creation and participation in
11 4 other unfair and deceptive transactions, the Prieto transaction, *Findings*, ¶ 25, the
12 Padgett transaction, *id.* ¶ 26, the Martinez transaction, *id.* ¶ 27, and the Garza
13 transaction, *id.* ¶ 28;
 - 14 4. **\$58,000** (or 2900) for Defendants' creation and participation
15 in 29 falsified real property tax affidavits;
 - 16 5. **\$66,000** (or 3300) for Defendants' acting as trustee with a
17 fiduciary duty, and, as co-beneficiary seeking a profit, on 33 land trust agreements
18 in violation of their fiduciary duty;
 - 19 6. **\$194,000** or 9700 for Defendants' obtaining and using 85 powers-
20 of-attorney, and actual attorneys in 12 additional transactions, to conceal the
21 existence of, and intercept payment of, tax overages intended for former
22 homeowners;
 - 23 7. **\$130,400,000 (reduced as explained below)** (or 100,000) for
24 Defendants' deceptive solicitations through the use of letters and postcards which
25 were sent in the approximate amount of 65,200 times;

26

1 8. \$500,000 (or 25000) for Defendants' approximately 250
2 commercial solicitations using an automatic dialing device; and

3 9. \$1,000,000 (or 50000) for Defendants' approximately 500
4 deceptive solicitations regarding the services of Unclaimed Funds, Inc.

5 Were the Court to impose the maximum penalty of \$2,000 for each violation the total
6 penalty amount would be \$132,432,000. However, the Court finds that this number exceeds
7 the amount necessary to vindicate the public's interest in a fair and competitive marketplace
8 and exceeds the amount necessary to provide a disincentive to Defendants' future acts.
9 Therefore, the Court reduces the penalty amount to a number that reflects both the amounts
10 involved in the transactions and that fulfills the goals of penalties under the Consumer
11 Protection Act.

12 The Court hereby **ORDERS** that Defendants JOSEPH KAISER, and HEIDI M.
13 KAISER, husband and wife, as members of a marital community with named defendant, G.
14 HOBUS INVESTMENTS, LLC; BOBO BUYS REAL ESTATE, LLC; PRE FLOP LLC; and
15 UNCLAIMED FUNDS, Inc., a Washington Corporation, shall forfeit and pay civil penalties in
16 the amount of ~~\$6,000,000 (six million dollars)~~ (or 177,100).

17 **Restitution:**

18 The Court finds, pursuant to RCW 19.86.080, that the Defendants have acquired money
19 and property by means of multiple and repeated violations of the Consumer Protection Act, RCW
20 19.86.020, and that this money should be restored to the victims of those acts by payment to the
21 Washington State Attorney General's Office for purposes of distribution to the victims of
22 Defendants' practices. The appropriate restitution amount is calculated as follows:

- 23 1. \$2,871,117.57 (or 2,871,117.57) for persons who lost title to their homes
24 due to Defendants' acts and practices in violation of RCW 19.86.020, representing
25 Defendants net gain in equity through partial interest deals and other unlawful
26 transactions; and,

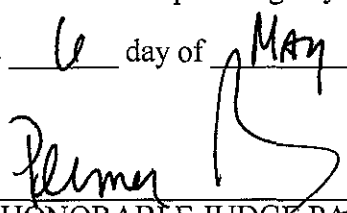
1 2. \$654,624.54 (or 654,624.54) for persons who have lost excess proceeds
2 from tax foreclosure sale of their homes (known as overage money), due to Defendants'
3 acts and practices in violation of RCW 19.86.020.

4 3. The total of the figures, \$3,525,742, should be reduced by \$290,000, the amount of
5 restitution already paid by former defendants. Consent Decree (May 3, 2007) ¶ 1.3 (a).

6 The Court hereby **ORDERS** that Defendants JOSEPH KAISER, and HEIDI M.
7 KAISER, husband and wife, as members of a marital community with named defendant, G.
8 HOBUS INVESTMENTS, LLC; BOBO BUYS REAL ESTATE, LLC; PRE FLOP LLC; and
9 UNCLAIMED FUNDS, Inc., a Washington Corporation shall, within thirty days of this Order,
10 pay **\$3,235,742** to the Washington State Attorney General's Office, and the State shall then
11 distribute that money to the victims in its entirety as it deems appropriate.


12 The penalties imposed and the restitution awarded are due to Defendants' multiple acts
13 and practices in violation of the Consumer Protection Act, RCW 19.86.020, which were done
14 with willful disregard for others and with the intent to defraud the victims. Nothing in this
15 order shall be construed to bar any consumer from pursuing any other available remedies.

16 DONE IN OPEN COURT this 6 day of May, 2009.

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18 
19 HONORABLE JUDGE PALMER ROBINSON
Judge of the Superior Court

20 Presented by:

21 ROBERT M. MCKENNA
22 Attorney General

23 
24 JAMES T. SUGARMAN, WSBA #39102
25 JASON E. BERNSTEIN, WSBA #39362
26 Assistant Attorneys General
Attorneys for Plaintiff
State of Washington

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The Honorable Palmer Robinson
Hearing Date: April 17, 2009

2 KING COUNTY
3 SUPERIOR COURT

6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
7 IN AND FOR THE COUNTY OF KING

8 STATE OF WASHINGTON,

9 Plaintiff,

NO. 07-2-08789-3 SEA

10 vs.

ORDER AWARDING COSTS AND
FEES
~~(PROPOSED)~~

11 JOSEPH KAISER, and HEIDI M.
12 KAISER, husband and wife, as
13 members of a marital community with
14 named defendant, G. HOBUS
INVESTMENTS, LLC; BOBO BUYS
REAL ESTATE, LLC; PRE FLOP
LLC; UNCLAIMED FUNDS, Inc., a
Washington Corporation,

15 Defendants.

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17 THIS MATTER came before the Court on April 17, 2009, on Plaintiff State of
18 Washington's Motion for the Award of Costs and Reasonable Attorney Fees. Plaintiff
19 appeared through James T. Sugarman and Jason E. Bernstein, Assistant Attorneys General.
20 Defendants appeared (*pro se*) (~~through their attorney,~~ _____.)

21 The Court having considered the previous Order Granting Partial Summary Judgment, the
22 Findings of Fact and Conclusions of Law, the Order Granting Injunctive Relief, all briefing and
23 exhibits submitted by the parties, the records and files herein, and being fully advised; now,
24 therefore finds that:

25 1. The State has substantially prevailed in asserting its claims under the Consumer
26 Protection Act, RCW 19.86.090.

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2. The State is the prevailing party for purposes of awarding costs. RCW 4.84.030.

3. The State has incurred reasonable attorney fees in the amount of \$808,501.80.

4. The State has incurred taxable costs in the amount of \$1,807.67.

5. The State has already received \$30,000 pursuant to the Consent Decree entered by former co-defendants in this matter.

6. Therefore, the State is entitled to \$780,309.47 in costs and attorney fees.


The Court hereby **ORDERS** that Defendants JOSEPH KAISER, and HEIDI M. KAISER, husband and wife, as members of a marital community with named defendant, G. HOBUS INVESTMENTS, LLC; BOBO BUYS REAL ESTATE, LLC; PRE FLOP LLC; and UNCLAIMED FUNDS, Inc., a Washington Corporation, shall forfeit and pay reasonable attorney fees and costs in the amount of \$780,309.47 (or _____).

DONE IN OPEN COURT this 6 day of May, 2009.


HONORABLE JUDGE PALMER ROBINSON
Judge of the Superior Court

Presented by:
ROBERT M. MCKENNA
Attorney General

Approved to Form:
Notice of Presentation Waived:


JAMES T. SUGARMAN, WSBA #39102
JASON E. BERNSTEIN, WSBA #39362
Assistant Attorneys General
Attorneys for Plaintiff
State of Washington

JOSEPH KAISER
HEIDI KAISER
Pro Se Defendants