

DISTRICT COURT, DENVER CITY AND COUNTY,
COLORADO
1437 Bannock Street
Denver, Colorado 80202

STATE OF COLORADO, ex rel. JOHN W. SUTHERS,
ATTORNEY GENERAL, and LAURA E. UDIS,
ADMINISTRATOR, UNIFORM CONSUMER
CREDIT CODE,

Plaintiffs,

v.

CLAIM SPECIALISTS INTERNATIONAL, INC., d/b/a
CSI, a/k/a CLAIMS SPECIALISTS
INTERNATIONAL, INC. a/k/a Claim Specialists, Inc., a
Colorado For-Profit Corporation; GLENN JESSEN,
individually and as officer thereof; MELISSA KING,
individually and as an officer thereof; MARK BAKER,
individually and as an officer thereof; and ROBERT
DOWNEY, individually and as an officer thereof; EARL
"TOM" HALL, individually and as an officer thereof;
Star II Roofing and Construction Company d/b/a K2
Roofing and Construction Company, a/k/a K2
Construction and Roofing, LLC, a Nevada Limited
Liability Company,

Defendants.

▲ COURT USE ONLY ▲

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Case No.:

COMPLAINT

Plaintiffs, the State of Colorado, upon relation of John W. Suthers, Attorney General for the State of Colorado, and Laura Udis, Administrator of the Colorado Uniform Consumer Credit Code (“Administrator”), by and through undersigned counsel, states and alleges as follows:

INTRODUCTION

1. This is an action brought by the State of Colorado and the Administrator pursuant to the Colorado Consumer Protection Act, §§ 6-1-101 through -115, C.R.S. (2008) (“CCPA”), and the Colorado Uniform Consumer Credit Code, §§ 5-1-101 through 5-9-103 (“UCCC”) to enjoin and restrain Defendants from engaging in certain unlawful practices, for statutorily-mandated civil penalties, for disgorgement, consumer restitution, and for other relief as provided in the CCPA and the UCCC.

PARTIES

2. John W. Suthers is the duly-elected Attorney General of the State of Colorado and is authorized under § 6-1-103, C.R.S. (2008), to enforce the provisions of the CCPA.

3. Laura E. Udis is the Administrator of the UCCC and is authorized under § 5-6-104, C.R.S. (2008) to enforce provisions of the UCCC.

4. Defendant Claim Specialist International, Inc. d/b/a CSI, a/k/a Claims Specialists International, Inc. and a/k/a Claim Specialists, Inc. [hereinafter “CSI”] is a Colorado for-profit corporation with its principle place of business listed with the Colorado Secretary of State at relevant times at 1240 S. Parker Road #103, Denver, Colorado 80231 and P.O. Box 24206, Denver, CO 80224. Defendant Glenn Jessen registered CSI with the Colorado Secretary of State in April 2007. At relevant times, CSI has solicited roof repairs door-to-door to consumers in the Denver Metro Area and Colorado Springs. CSI also advertised on its web site: www.claimspecialists.org. On February 7, 2009, CSI was dissolved, and then reinstated on March 5, 2009.

5. Defendant Glenn Jessen was an owner of CSI and served as the company’s president from April 2007 through approximately November 2008. He left the company in or about January 2009. Defendant Jessen was active in developing CSI’s business plan and managing the day-to-day operations of the company. Defendant Jessen was aware of the company’s sales and production rates, accounts receivable, cash flow and consumer complaints. He conceived of, directed, and engaged in the practices and policies of CSI to such a degree as to make him personally liable for the deceptive trade practices alleged herein of all Defendants.

6. Defendant Melissa King started working for CSI in August 2007 managing the company’s bank accounts, handling taxes, and payroll service. Defendant King was promoted in February 2008 to a “partner” of the company and was listed as the Treasurer in August 2008, according to Colorado Secretary of State filings. She continued to manage

CSI's bookkeeping, in addition to working in the company's production department. In November 2008, Defendant King was named President of CSI and served in that capacity until May 2009 when she filed her formal resignation with the Colorado Secretary of State. Defendant King was aware of the company's sales and production rates, accounts receivable, cash flow and consumer complaints. Defendant King conceived of, directed, and engaged in the practices and policies of CSI to such a degree as to make her personally liable for the deceptive trade practices alleged herein of all Defendants.

7. Defendants Mark Baker and Robert Downey were also owners and officers of CSI. They managed the company's sales department from CSI's inception in April 2007 through February 2009 when they left the company. Defendant Baker was listed as CSI's Vice President and Defendant Downey as CSI's Vice President of Sales, according to Colorado Secretary of State filings. Defendant Downey hired all sales staff and drafted the sales contract signed by homeowners. Defendants Baker and Downey led weekly sales meetings and participated in meetings among the owners as well. Defendants Baker and Downey were aware of the company's sales and production rates. Defendants Baker and Downey conceived of, directed, and engaged in the practices and policies of CSI to such a degree as to make each of them personally liable for the deceptive trade practices alleged herein of all Defendants.

8. Defendant Earl "Tom" Hall was also an owner and officer of CSI. Defendant Hall served as Secretary, according to August 2008 Secretary of State filings. Defendant Hall was in charge of production of roofing jobs at CSI, which required him to work closely with CSI's accounts receivable department. Defendant Hall attended meetings among the owners. Defendant Hall was aware of the company's sales and production rates, accounts receivable, cash flow and consumer complaints. Defendant Hall conceived of, directed, and engaged in the practices and policies of CSI to such a degree as to make him personally liable for the deceptive trade practices alleged herein of all Defendants.

9. On February 10, 2009, Defendant Melissa King registered with the Nevada and Colorado Secretaries of State Star II Roofing and Construction Company d/b/a K2 Roofing and Construction Company. On March 5, 2009, Defendant King registered K2 Construction and Roofing, LLC with the Colorado Secretary of State as a foreign limited liability company based out of Nevada. Both companies, collectively referred to hereinafter as "K2" were continuations of CSI and doing business in Colorado. Both companies listed Defendant King as the registered agent, and a principle office street address of 2075 South Zuni Street, Denver, Colorado 80223. At relevant times, K2 solicited roof repairs door-to-door to consumers in the Denver Metro Area and Colorado Springs.

JURISDICTION AND VENUE

11. Pursuant to §§ 6-1-103, 110(1), and 5-1-203(1), C.R.S. (2008), this Court has jurisdiction to enter appropriate orders prior to and following an ultimate determination of liability.

12. The violations alleged herein were committed, in part, in the City and County of Denver, Colorado. Therefore, venue is proper in the county of Denver, Colorado, pursuant to §§ 6-1-103 and 5-1-203(1), C.R.S., and Colo. R. Civ. P. 98 (2008).

RELEVANT TIMES

13. The conduct that gives rise to the claims for relief contained in this Complaint began in the year 2007 and continues to the present.

14. This action is timely brought pursuant to § 6-1-115, C.R.S. (2008), in that it is brought within three years of the date on which false, misleading, and deceptive acts or practices occurred and/or were discovered.

PUBLIC INTEREST

15. Through the unlawful practices of their business, or occupation, Defendants have deceived, misled, and financially injured a number of consumers in Colorado and nationwide. Therefore, the Colorado Attorney General believes these legal proceedings are in the public interest and are necessary to safeguard citizens from Defendants' unlawful business activities.

GENERAL ALLEGATIONS

16. Defendants owned, operated, and managed a roofing "consultant" company that employed high-pressure door-to-door sales tactics in the Denver Metro Area and Colorado Springs. At all relevant times, Defendants represented that they would act as the homeowner's agent to coordinate the claims adjustment process with the insurance company and the roof repair process with a subcontracted roofing company. In reality, Defendants also performed claims adjustments and roof repairs at various times.

17. At relevant times, neither Defendants nor their employees had a general contractor's license or a public adjuster's license. Defendants Jessen, Baker, Downey, Hall and King have each worked in the roofing or construction industry for many years.

18. Defendants targeted residential areas where hail storms may have damaged roofs. Defendants canvassed these neighborhoods during daylight hours when elderly homeowners were likely to be home. Defendants' sales staff frequently wore orange vests that said "CSI" and badges that said "INSPECTOR" which conveyed the misimpression that Defendants were acting in some official capacity.

19. In reality, Defendants' sales teams consisted of a "jumper," a first contact sales representative or "door knocker," and a "closer." The sales representative would knock on the door of a homeowner and inform the homeowner that his roof may have coverable damage from a particular hail storm and offered a "free roof inspection."

20. The “jumper” who accompanied the sales representative obtained a signed liability waiver from the homeowner to “inspect” the roof. After the jumper found damage to the homeowner’s roof, the sales representative and closer pressured the homeowner into signing a door-to-door sales contract which emphasized that there was no risk to the homeowner in doing so.

21. Defendants routinely represented to homeowners that the roof repair would be accomplished in two to eight weeks. Consumers relied upon this representation of completion time in deciding whether to use Defendants’ services.

22. The homeowners were frequently unclear as to Defendants’ identity, *i.e.* whether they were roofers, insurance representatives, or governmental inspectors. Defendants misled consumers as to the contractual nature of the door-to-door sales contract and the financial risks associated with signing the contract.

23. Defendants would instruct the homeowner to call in the claim to his insurance company in the presence of the sales representative, or Defendants would send a “closer” to the homeowner’s house within an hour or two to apply additional pressure in order to close the deal and obtain a signature on the sales contract and claim number. Often the sales representative or closer would call in the claim to the homeowner’s insurance company directly.

24. Sales teams were paid solely on commission. Jumpers, sales representatives, and closers each received between \$100 and \$200 if they brought back a signed door-to-door sales contract. Defendants paid the sales team on a weekly basis and before any insurance settlement claim money was received on the particular contract.

25. Defendants’ door-to-door sales contract required homeowners to turn over insurance settlement claim money received by the homeowner before the roof repair began. Insurance companies allocated more than 50% of the claim in their initial payments on the claim. The remaining settlement money was due from the homeowner upon receipt of final payment from the insurance carrier. Defendants contracted to collect all payments related to the homeowner’s roof replacement, hold them and distribute them to the roofing contractors when the job was completed. Homeowners’ insurance deductibles were frequently collected by Defendants on an installment payment plan basis.

Misrepresentations Regarding Completion of Repairs

26. Beginning in the spring of 2008, Defendants sharply increased their door-to-door sales. During relevant periods, Defendants brought in millions of dollars of new roofing consultant contracts. For example, in a single week in the summer of 2008, Defendants brought in 150 new sales contracts, each contract worth between \$2,000 and \$3,000 in initial insurance settlement payments or at least \$300,000.00 total received by Defendants.

27. Defendants, rather than their subcontracted roofing companies, controlled the production of roof repairs. Defendants were not meeting the production demand created by their own deliberate increased sales.

28. Defendants did not substantially modify their representations to homeowners regarding the timeframe for roof repair completion. Even upon realizing that numerous existing roof repair contracts remained unperformed and might never be completed, Defendants continued to represent to consumers that if they retained Defendants their roof repair would be completed within two to eight weeks and continued to enter into new door-to-door sales contracts with homeowners.

29. Defendants directed employees to lie to consumers who complained as to the delays in their roof repair. Defendants directed personnel to blame delays on shingle shortages caused by recent natural disasters such as hurricanes, and because Defendants were busy helping out homeowners in Texas.

30. Instead of using the initial insurance payment on the roofing project for the specific home covered by the insurance policy, Defendants used initial insurance monies collected from homeowners for other purposes. Defendants paid themselves and their employees unusually large salaries and bonuses from such monies first. Suppliers and subcontracted roofing companies would only be paid after Defendants paid salaries and bonuses, and suppliers and subcontracted roofing companies were often paid from insurance monies collected on other unrelated homes.

31. As production delays increased, Defendants relied more heavily on money from incoming sales to pay for completed roof repair jobs for which insurance monies had already been collected and spent. By the Fall of 2008, Defendants knew they had entered at least 400 contracts on which they had collected hundreds of thousands of dollars in initial insurance payments, yet were unable to purchase the supplies and hire the roofers to complete the work on the 400 contracts.

32. This scheme resulted in more than 145 consumer complaints filed with the Better Business Bureau and the Colorado Attorney General's Office within the last year. The complainants allege that more than \$440,000.00 in insurance money was paid to Defendants for which no roof repair was performed or refund made. Review of Defendants' files produced during the State's investigation further revealed that Defendants took more than a million dollars worth of insurance money from more than five-hundred consumers and provided no work.

33. By the late summer of 2008, Defendants were falling behind in paying their roofing subcontractors and suppliers for past, completed roof repair jobs. By the fall of 2008, Defendants were hundreds of thousands of dollars in debt to the subcontractors and suppliers.

34. Even after Defendants started receiving hundreds of complaints from homeowners regarding work that had not been commenced within the represented timeframe, and even after Defendants' own internal records indicated that substantially more roof repair jobs were coming in than were being completed, Defendants continued along the same path and strove to increase their sales force to an all-time high in the fall of 2008.

35. From the fall of 2008 through February 2009, Defendants fell further behind in production while at the same time generating more new sales contracts. During this time, Defendants continued to pay themselves and their employees unusually large salaries and bonuses.

36. Defendants Jessen, King, Downey, Baker, and Hall all had knowledge as early as June 2008 that CSI was suffering from substantial production delays. Defendants knew they could not deliver the number of roof repair jobs they were selling on a weekly basis within any reasonable amount of time, let alone the represented two to eight weeks. But Defendants never halted or limited sales and instead hired more sales persons and encouraged sales teams to sell more.

37. After waiting months and months for new roofs, many homeowners demanded to be released from their door-to-door sales contracts with Defendants in order to contract directly with roofers to do the work. Instead of letting homeowners out of the sales contracts and refunding the initial insurance payment, Defendants enforced the contract's cancellation fee, which is 20% of the entire insurance claim amount.

Defendant King Continued Defendants' Deceptive Practices Under K2 and Claim Specialists, Inc.

38. Defendant King dissolved CSI on February 7, 2009. On February 10, 2009 she registered in Nevada a company called Star II Roofing and Construction d/b/a K2 Roofing and Construction a/k/a K2 Construction and Roofing. Defendant King opened a Colorado bank account in K2's name and continued CSI's operations under the new name.

39. Defendant King changed CSI's name to K2 because of bad press received by CSI which greatly reduced the number of homeowners willing to sign contracts with CSI. One month later, however, Defendant King reinstated CSI with the Colorado Secretary of State, and on March 22, 2009 sent out a form letter to the hundreds of homeowners who had signed Defendants' contract, paid money to Defendants and received no roof repairs. Many of the consumers who received this letter had signed contracts with Defendants more than 8 months earlier. The letter stated that CSI was operating with a smaller team and that this was "an unfortunate sign of the economic times." The letter further stated: "At this time, there is no set install date for your project, but we assure you we are working as quickly as possible to make that date available."

40. In reality, CSI and K2 had no production crew as of March 22, 2009. CSI was in severe debt to its former roofing subcontractors and material suppliers, and thus no work was being done on behalf of CSI or K2.

41. Once a claim is made by an insured homeowner, insurers typically allow one year for completion of the scheduled work, within which the insurer will issue a final claim settlement check to the homeowner. Many homeowners found themselves close to the one year deadline. Defendants' actions left homeowners in a far worse position than had the homeowners never made a claim. In other words, many homeowners were left with no repaired roof and no more insurance money to pay another roofer to make the repairs.

42. In or around February 2009, Defendant King made an arrangement with AVI, Inc., one of CSI's roofing subcontractors, to pay down CSI's \$300,000.00 debt to AVI. CSI's customers received letters from AVI that offered to replace their roofs in exchange for the second insurance payment and considerable out-of-pocket money from the homeowner because the initial insurance payment previously collected and spent by CSI was not counted toward AVI's roof repair work.

43. Under this arrangement, AVI applied a percentage of their profits toward CSI's debt to AVI. Defendant King received the homeowner's deductible payment as personal compensation. Homeowners, many of whom were seniors on a fixed budget, could not afford to pay the thousands of dollars of out-of-pocket expenses and thus were unable to take advantage of AVI's offer. To be sure, these homeowners agreed to do business with CSI because they were assured there was "no risk" and all that they were responsible for was their deductible.

Defendants Failed To Obtain Proper Licensure

44. Colorado requires any person acting as a Public Insurance Adjuster to obtain a license from the Colorado Division of Insurance. C.R.S. § 10-2-417. A Public Insurance Adjuster is an adjuster who works as an independent contractor and represents an insured on a fee basis in settlement of claims. C.C.R. § 1-2-12.

45. The very essence of Defendants' business model was to act on behalf of the homeowner – the insured – and negotiate a roof repair settlement claim with the homeowner's insurance carrier, and work with subcontractors to ensure the work was done within the claim settlement amount.

46. However, in most instances, Defendants' employees who actually negotiated with a homeowner's insurance carrier were not licensed public adjusters.

47. Defendants, at relevant times, represented homeowners on a fee basis in settlement of insurance claims without the necessary licensure.

48. In addition, at relevant times, Defendants contracted with hundreds of homeowners in El Paso County to perform roof replacement without obtaining the necessary contractor licensure required by the Pikes Peak Regional Building Code § 16-6-101 and 102. Because Defendants failed to obtain necessary licensure they were unable to obtain the necessary permits to perform roof work for homeowners in El Paso County. *See*, PPRBC § 16-3-101 and § 16-6-104.

THE UCCC

49. The UCCC governs Defendants' business practices. In many instances, Defendants made available to homeowners payment plans that permitted homeowners to pay their insurance deductibles to Defendants on an installment basis.

50. Defendants, at relevant times, were creditors, as defined by the UCCC. Defendants made and entered into consumer credit transactions in Colorado and these transactions were initially payable to Defendants. *See* § 5-1-301(17), C.R.S. (2008).

51. In their agreements with homeowners, Defendants regularly provided credit of less than seventy-five thousand dollars (\$75,000) payable in more than four (4) installments for the purchase of roof consulting services. Defendants' agreements with consumers were consumer credit sales. *See* §§ 5-1-301(11)(a), (12), and (32), C.R.S. (2008).

Failing to Inform Homeowners of Their Three-Day Right to Rescind and Wrongly Requiring Homeowners to Waive Their Right in Violation of the UCCC

52. As Defendants' reputation for delayed and nonexistent roof repairs spread among insurance carriers, homeowners who signed Defendants' door-to-door sales contract began exercising their three-day right to rescind the contract, a provision stated at the bottom of Defendants' contract.

53. In order to prevent homeowners from canceling the contract within the three days of signing it, Defendants revised the door-to-door sales contract in or around August 2008 to include a provision next to the homeowner's signature line that read: "In consideration of the work to proceed immediately, I hereby waive my 3 day right to rescission." Some versions of the door-to-door sales contract include a separate line next to this provision for the homeowner to initial, most did not. Defendants approved of, were aware of, and implemented the revised contracts.

54. The Federal Trade Commission's rule under 16 C.F.R § 429 concerning a cooling-off period for door-to-door sales [hereinafter "FTC Cooling-Off Rule"], establishes consumers' three-day right to rescind door-to-door sales. The FTC Cooling-Off Rule requires door-to-door solicitors to state this right on the sales contract and include a separate cancellation form in duplicate that the consumer may use to notify the solicitor of his request to cancel. The FTC Cooling-Off Rule prohibits inclusion in a sales contract any waiver of a homeowner's three-day right to rescind.

55. The UCCC specifically incorporates the FTC Cooling-Off Rule into Colorado law. § 5-3-403(2), C.R.S. (2008). Additionally, the UCCC does not permit a consumer to waive or agree to forego rights or benefits under the code. § 5-1-106(1), C.R.S. (2008).

56. Defendants wrongly included in their door-to-door sales contracts a waiver of a homeowner's three-day right to rescind. Defendants failed to provide homeowners with a separate Notice of Cancellation form in duplicate along with the door-to-door sales contract. Each is a direct violation of the UCCC/FTC.

57. In or around September 2008, Defendant Baker met with an investigator and attorney at the Colorado Attorney General's Office. The State advised Defendants at that time they were not in compliance with the UCCC/FTC requirements regarding home solicitation sales.

58. Despite this advisement Defendants failed to revise their sales contracts to conform with the requirements of the UCCC/FTC. In most instances Defendants continued to refuse to permit homeowners to cancel their sales contracts. Indeed, rather than permitting the homeowner to cancel the contract, Defendants enforced the door-to-door sales contract's 20% cancellation fee in instances where the homeowner already had turned over their initial insurance settlement payment. In instances where the homeowner had not yet turned over the insurance settlement payment but asked to cancel, Defendants threatened to file mechanics liens against the homeowner's property in order to collect the 20% fee.

Failing to Make Proper Disclosures Under the UCCC

59. Defendants use an Insurance Policy Deductible Payment Agreement to contract with consumers for the payment of the consumer's deductible.

60. In at least twenty-five instances over the course of 12 months, Defendants entered into Insurance Policy Deductible Payment Agreements with consumers that allowed for at least four payment installments.

61. Defendants' Insurance Policy Deductible Payment Agreement fails to use the terms "amount financed," "total of payments," or "total sale price."

FIRST CLAIM FOR RELIEF

(False representations as to approval and certification of goods and services)

62. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 61 of this Complaint.

63. Through the above-described conduct in the course of their business, occupation or vocation, Defendants made false representations as to their approval and

certification to provide, among other things, roofing and claim adjustment services, in violation of § 6-1-105(1)(b), C.R.S. (2008).

64. By means of the above-described unlawful deceptive trade practices, Defendants deceived, misled, and unlawfully acquired money from consumers from Colorado.

SECOND CLAIM FOR RELIEF

(False representations as to affiliation, connection, or association with
or certification by another)

65. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 61 of this Complaint.

66. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have made false representations as to their affiliation, connection or association with roofers, insurance representatives, or governmental inspectors, and their certification by governmental entities to provide services restricted through proper licensure, in violation of § 6-1-105(1) (c), C.R.S. (2008).

67. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from consumers from Colorado.

THIRD CLAIM FOR RELIEF

(Advertises goods, services, or property with intent not to sell them as advertised)

68. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 61 of this Complaint.

69. Through the above-described conduct in the course of their business, occupation or vocation, Defendants misled consumers by advertising and selling roof replacements when they knew that they could not deliver the work in the represented timeframe or not at all, in violation of § 6-1-105(1)(i), C.R.S. (2008).

70. By means of the above-described unlawful deceptive trade practices, Defendants deceived, misled, and unlawfully acquired money from consumers from Colorado.

FOURTH 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)

71. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 61 of this Complaint.

72. Through the above-described conduct in the course of their business, occupation or vocation, Defendants misled consumers to believe they were responsible for paying only their deductible when in fact many homeowners were required to pay substantially more for contracted roof replacements, in violation of § 6-1-105(1)(l), C.R.S. (2008).

73. By means of the above-described unlawful deceptive trade practices, Defendants deceived, misled, and unlawfully acquired money from consumers from Colorado.

FIFTH CLAIM FOR RELIEF

(Advertising accompanied by an effort to sell goods, services, or property other than those advertised or on terms other than those advertised and failure to make deliveries of such goods, property or services within a reasonable time or to make a refund therefor)

74. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 61 of this Complaint.

75. Through the above-described conduct in the course of their business, occupation or vocation, Defendants solicited door-to-door goods and services on terms other than those they advertise and then failed to deliver the goods and services within a reasonable time and refused to refund consumers, in violation of § 6-1-105(1)(n)(VII), C.R.S. (2008).

76. By means of the above-described unlawful deceptive trade practices, Defendants deceived, misled, and unlawfully acquired money from consumers from Colorado.

SIXTH CLAIM FOR RELIEF

(Solicits door-to-door as a seller, unless the seller, within thirty seconds after beginning the conversation, identifies himself or herself, whom he or she represents, and the purpose of the call)

77. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 61 of this Complaint.

78. Through the above-described conduct in the course of their business, occupation or vocation, Defendants solicited door-to-door goods and services and failed to identify themselves within the first thirty seconds after beginning conversations with consumers, in violation of § 6-1-105(1)(p), C.R.S. (2008).

79. By means of the above-described unlawful deceptive trade practices, Defendants deceived, misled, and unlawfully acquired money from consumers from Colorado.

SEVENTH CLAIM FOR RELIEF
(Failing to disclose material information)

80. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 61 of this Complaint.

81. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have made false representations regarding the goods they have advertised and sold, in violation of § 6-1-105(1)(u), C.R.S. (2008). Specifically, Defendants failed to disclose material information which they knew at the time including but not limited to roof replacement completion time and the ability of Defendants to complete the roof replacement at all in order to induce consumers to enter into a transaction with Defendants.

82. By means of the above-described unlawful deceptive trade practices, Defendants deceived, misled, and unlawfully acquired money from consumers from Colorado.

EIGHTH CLAIM FOR RELIEF
(Conducting business without proper licensure)

83. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 61 of this Complaint.

84. Through the above-described conduct in the course of their business, occupation or vocation, Defendant failed to obtain or require their employees to obtain the necessary governmental licensure in order to provide services as public adjusters and contractors, in violation of § 6-1-105(1)(z), C.R.S. (2008).

85. By means of the above-described unlawful deceptive trade practices, Defendants deceived, misled, and unlawfully acquired money from consumers from Colorado.

NINTH CLAIM FOR RELIEF

(Failure to disclose information regarding homeowners three-day right to rescind and refusing to permit homeowners to cancel their contracts within their rights under the UCCC)

86. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 61 of this Complaint.

87. Defendants' disclosures regarding a homeowner's three-day right to rescind a home solicitation sale must comply with the FTC Cooling-off Rule. § 5-3-403(2), C.R.S. (2008). Until Defendants have complied with § 5-3-403, homeowners are permitted to cancel their sales contracts in any manner and by any means within three years of the violative home solicitation sale. § 5-3-403(3), C.R.S. (2008).

88. Defendants failed to provide adequate disclosures regarding a homeowner's three-day right to rescind, and at relevant times Defendants contractually required homeowners to waive their three-day right rescind. Defendants failed to refund payments made by homeowners who have canceled their contracts in accordance with their rights under the UCCC.

89. By means of the above-described unlawful practices, Defendants unlawfully acquired money from consumers from Colorado.

TENTH CLAIM FOR RELIEF

(Failure to use required terms - UCCC)

90. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 61 of this Complaint.

91. The UCCC incorporates the federal Truth in Lending Act, 15 U.S.C. §§ 1601 through 1667f (hereinafter "TILA"), and Regulation Z, 12 C.F.R. Part 226, which include the regulations implementing TILA. *See* § 5-3-101(2), C.R.S. (2008)

92. The UCCC, incorporating TILA and Regulation Z, requires that Defendants' Insurance Policy Deductible Payment Agreement uses the terms "amount financed," "total of payments," and "total sale price." *See* § 5-3-101(2), C.R.S. and Regulation Z, 12 C.F.R. § 226.18(b), (h), and (j).

93. Defendants' Insurance Policy Deductible Payment Agreement fails to include the terms "amount financed," "total of payments," and "total sale price," in violation of § 5-3-101(2), C.R.S. (2008).

94. By means of the above-described unlawful practices, Defendants unlawfully acquired money from consumers from Colorado.

RELIEF REQUESTED

WHEREFORE, Plaintiffs pray for judgment against Defendants and the following relief:

A. An order declaring Defendants' above-described conduct to be in violation of the Colorado Consumer Protection Act, § 6-1-105 (b), (c), (i), (l), (n), (p), (u) and (z), C.R.S. (2008) and the Uniform Consumer Credit Code § § 5-3-101 and 403, C.R.S. (2008).

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. 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 committing any of the practices, acts, conduct, transactions, or violations described above, or otherwise violating the UCCC and requiring defendants to tender to consumers any payments made by consumers on contracts canceled within their rights under the UCCC.

D. Appropriate orders necessary to prevent Defendants' continued or future deceptive trade practices.

E. 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. (2008).

F. 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. (2008), or \$10,000 per violation pursuant to § 6-1-112(3), C.R.S. (2008); and civil penalties in an amount not to exceed \$5,000 for engaging in a course of repeated and willful violations of the UCCC pursuant to § 5-6-114(2), C.R.S. (2008).

G. An order requiring Defendants to pay the costs and expenses of this action incurred by the Attorney General and the Administrator, including, but not limited to, Plaintiff's attorney fees, pursuant to § 6-1-113(4) and § 5-6-114(3), C.R.S. (2008).

H. Any such further orders as the Court may deem just and proper to effectuate the purposes of the CCPA and the UCCC.

Dated this ____ day of _____, 2009.

JOHN W. SUTHERS
Attorney General

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