



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. The State of Colorado (“Plaintiff” or “State”) has shown from specific facts by affidavit 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 website through their deceptive advertising, and inflict additional harm on consumers by misleading consumers into purchasing goods from Defendants that Defendants cannot provide in a reasonable time frame, if at all. As set forth in the Complaint, the Motion, and in the affidavits accompanying each, consumers suffer financial loss and inconvenience due to Defendants’ deceptive business practices.

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, 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.

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 the State, and in light of Defendants' lack of responsiveness during the State's investigation, the entry of a temporary restraining order without notice to Defendants is both necessary and appropriate.

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

8. Pursuant to C.R.C.P. Rule 65(c), the State is not required to provide a security bond.

**IT IS HEREBY ORDERED that Plaintiff's request for an ex parte temporary restraining order and asset freeze is hereby GRANTED; and**

**IT IS FURTHER ORDERED, PURSUANT TO C.R.S. § 6-1-110(1), THAT:**

- 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 this Court's order are **ENJOINED** from:
- a. Advertising or selling or accepting or orders or preorders for merchandise via the internet;
  - b. Advertising or selling any merchandise or services that Defendants do not currently have in their physical possession;
  - c. Advertising or selling merchandise where the consumer is not able to physically inspect the merchandise prior to purchasing; and
  - d. Advertising or selling merchandise which requires shipment to consumers.
- 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:
- a. Deactivate within 48 hours of this Order, all internet sites, internet advertising, and third-party internet advertising, related to Defendants' online sales business, including but not limited to:
    - i. 123mountain.com;
    - ii. Summitwarehouse.com;
    - iii. And any and all online shops operated by Defendants via a third party, including but not limited to ebay.com, etsy.com, facebook.com, and craigslist.com.

- C. Additionally, 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:
- a. Refund, within ten (10) days of this Order, all monies paid by consumers for goods not yet delivered, unless Defendants can show that the exact product has already been ordered from a manufacturer or third party in order to fulfill the consumer's order. Defendants are prohibited from charging any cancellation fee or imposing any cost to a consumer seeking a refund, exchange, or return.
- D. Provide a status report and certification to the Court fifteen (15) days after the entry of the Order that Defendants have complied and are complying with sections A, B, and C above. The status report shall include a complete list of consumers whom Defendants have provided refunds in compliance with section C. The status report shall also include a list of consumers for whom Defendants have already placed orders through third party retailers or manufacturers. The status report will indicate for consumers contacted, the name of the consumer, the telephone number and email address of the consumer, the amount originally charged to the consumer, the amount refunded, the date of the refund, and the method of payment of the refund. The status report shall also verify compliance with B(a).
- E. Within fifteen (15) days of this Order, and prior to the Preliminary Injunction hearing, Defendants shall fully comply with the State's December 2015 Civil Investigative Demand and provide to the Attorney General all documents requested therein.

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

- A. Defendants are **ENJOINED** from transferring, gifting, assigning, encumbering, selling, dissipating, or otherwise disposing of assets held in accounts owned, operated, used, held for the benefit of Defendants, including but not limited to the following:

- a. Alpine Bank
  - i. Known accounts: XXXXXX1636, XXXXXX6884, XXXXXX1644, XXXXXX1652, XXXXXX3395, XXXXXX2941, XXXXXX2836, XXXXXX2658, XXXXXX2828
  - ii. Known account names: Summit Peak, Ski Angel, 123Mountain, International Rocky Trade.
  
- b. Edward Jones & Company, LP
  - i. Account number(s) not currently known.
  - ii. Known account names: Sofia and Oliver Goumas.
  
- c. JP Morgan Chase & Co.
  - i. Known accounts: XXXXXX9506, XXXXXX8676, XXXXXX6700, XXXXXX9050, XXXXXX8299, XXXXXX7233, XXXXXX6081, XXXXXX6099, XXXXXX1800, XXXXXX3585, XXXXXX9498, XXXXXX9999
  - ii. Known account names: Summit Wearhouse LLC, Olivier G. Goumas, Anna Sofia Goumas, International Rocky Trade LLC DBA 123Mountain,

**THIS ORDER IS ENTERED this 29<sup>th</sup> day of March, 2016, at 8:55 a.m.**

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.

**THE COURT FURTHER ORDERS** that Plaintiff's request for a preliminary injunction shall be set for an evidentiary hearing at **9:00 a.m. on April 6, 2016**. The duration of the hearing shall not exceed three (3) hours. The matter shall be heard in Courtroom 3, Division T, Summit County Justice Center, 501 N. Park Avenue, Breckenridge, Colorado.

  
Mark D. Thompson  
Chief District Court Judge

