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10	SUPERIOR COURT OF ARIZONA		
11	IN MARICOPA COUNTY		
12	STATE OF ARIZONA, ex rel. KRISTIN K.	Case No. CV2023-017529	
	MAYES, Attorney General,	COMPLAINT	
13	Plaintiff,	COMPLAINT	
14	i iamum,		
15	v.		
16	OLD TOWN AC, L.L.C.,		
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17	Defendant.		
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20	Plaintiff, State of Arizona ex rel. Kristi	n K. Mayes, the Attorney General (the "State")	
21	alleges the following for its Civil Complaint (the "Complaint") against Defendant Old Town AC		
22	L.L.C. ("Old Town AC").		
23	INTROI	DUCTION	
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	services to consumers in Arizona.		
26	2. From February 2016 to February 2019, Old Town AC purchased telephone lead		

and would call Arizona consumers to sell or set up appointments to sell heating, ventilation, and

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air conditioning services.

3. However, Old Town AC failed to ensure that the telephone leads it called were not on the Federal Trade Commission's Do-Not-Call Registry, resulting in Old Town AC placing thousands of illegal telemarketing sales calls.

JURISDICTION AND VENUE

- 4. The State brings this action pursuant to the Arizona Consumer Fraud Act, Arizona Revised Statutes ("A.R.S.") §§ 44-1521 to -1534 (the "ACFA") and the Arizona Telephone Solicitations Statute, A.R.S. §§ 44-1271 to -1282 (the "ATSS") to obtain injunctive relief to permanently enjoin and prevent the unlawful acts and practices alleged in this Complaint, and to obtain other relief, including restitution, disgorgement of profits, gains, gross receipts, or other benefits, civil penalties, and costs and attorneys' fees.
 - 5. This Court has subject-matter jurisdiction.
- 6. This Court may issue appropriate orders both prior to and following a determination of liability pursuant to A.R.S. § 44-1528.
- 7. Old Town AC caused events to occur in this state from which the claims that are the subject of this Complaint arose.
 - 8. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(17).

PARTIES

- 9. Plaintiff is the State of Arizona *ex rel*. Kristin K. Mayes, the Attorney General of Arizona, who is authorized to bring this action under the ACFA and the ATSS.
- 10. Defendant Old Town AC, formerly known as Rescue One Air, LLC, is an Arizona limited liability company with its principal place of business located in Arizona.

ALLEGATIONS

- 11. From February 2016 to February 2019, Defendant Old Town AC initiated phone calls from a location within the state of Arizona, offering to provide or arrange to provide residential heating, ventilation, and air conditioning services to Arizona consumers in exchange for payment.
- 12. Between February 2016 and February 2019, Old Town AC initiated thousands of intrastate telephone solicitations to telephone numbers belonging to Arizona consumers who had

registered their telephone numbers on the Federal Trade Commission's Do-Not-Call Registry when Old Town AC was not authorized or permitted to make the solicitations.

- 13. During this time period, Old Town AC did not have the express written consent by the consumers to call them and make the solicitations.
- 14. Many of these consumers were not prior customers, employees, or other people who Old Town AC would have had permission to contact for the purpose of making the solicitations absent written consent.

CLAIM FOR RELIEF

VIOLATIONS OF THE ARIZONA TELEPHONE SOLICITATIONS ACT, A.R.S. §§ 44-1271 to -1282, AND ARIZONA CONSUMER FRAUD ACT, A.R.S. §§ 44-1521 to -1534

- 15. The State realleges all prior allegations of this Complaint as though fully set forth herein.
- 16. Old Town AC was a "seller" as defined under the ATSS. As a "seller" Old Town AC was required to comply with the ATSS.
- 17. The conduct described in the preceding paragraphs of this Complaint violates the ATSS, including, but not limited to:
 - a. Initiating telephone solicitations to telephone numbers entered in the National Do Not Call Registry, in violation of A.R.S. § 44-1278(B)(6) and 16 C.F.R § 310.4(b)(1)(iii)(B);
 - b. Initiating telephone solicitations to telephone numbers entered in the National Do Not Call Registry, in violation of A.R.S. §§ 44-1278(B)(6) and 47 C.F.R § 64.1200(c)(2); and
 - c. Initiating telephone solicitations to telephone numbers entered in the National Do Not Call Registry, in violation of A.R.S. § 44-1282.
 - 18. Old Town AC is not exempt from the ATSS.
- 19. Old Town AC's violations of A.R.S. § 44-1278 of the ATSS constitute unlawful practices under the ACFA, A.R.S. § 44-1522, pursuant to A.R.S. § 44-1278(C).

- 20. Old Town AC's violations of A.R.S. § 44-1282 of the ATSS constitute unlawful practices under the ACFA, A.R.S. § 44-1522, pursuant to A.R.S. § 44-1282(B).
- 21. In all matters alleged in the preceding paragraphs, Old Town AC knew or should have known that its conduct was of the nature prohibited by A.R.S. § 44-1522, subjecting it to enforcement and penalties as provided in A.R.S. § 44-1531(A).

PRAYER FOR RELIEF

WHEREFORE, the State respectfully requests that the Court:

- 22. Pursuant to A.R.S. § 44-1528(A)(1), issue a permanent injunction in accordance with Ariz. R. Civ. P. 65(d)(1), enjoining and restraining (a) Old Town AC, (b) its officers, agents, servants, employees, attorneys, and (c) all persons in active concert or participation with anyone described in part (a) or (b) of this paragraph, directly or indirectly, from engaging in deceptive, misleading, or unfair acts or practices, or concealments, suppressions, or omissions, that violate the ACFA, A.R.S. § 44-1522(A), including specific injunctive relief barring Old Town AC from engaging in the unlawful acts and practices set forth above;
- 23. Pursuant to A.R.S. § 44-1528(A)(2), order Old Town AC to restore to all persons in interest any monies or property, real or personal, which may have been acquired by any means or any practice in this article declared to be unlawful;
- 24. Pursuant to A.R.S. § 44-1528(A)(3), order Old Town AC to disgorge all profits, gains, gross receipts, or other benefits obtained as a result of its unlawful acts alleged herein;
- 25. Pursuant to A.R.S. §§ 44-1531 and 44-1278, order Old Town AC to pay to the State of Arizona a civil penalty of up to \$10,000 for each willful violation of A.R.S. § 44-1522;
- 26. Pursuant to A.R.S. §§ 44-1531 and 44-1282, order Old Town AC to pay to the State of Arizona a civil penalty of up to \$1,000 for each willful violation of A.R.S. § 44-1282; and

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27. Award the State such further relief the Court deems just and proper under the circumstances.

DATED this 7th day of November, 2023.

KRISTIN K. MAYES Attorney General

Dylan Jones

Assistant Attorney General

Attorneys for the State of Arizona