STATE OF MAINE SUPERIOR COURT

CUMBERLAND, SS. CIVIL ACTION

DOCKET NO. CV-12-

STATE OF MAINE, )

)

Plaintiff, )

)

v. ) COMPLAINT

) (Injunctive Relief and

DANIEL B. TUCCI, a/k/a ) Civil Penalties Requested)

DAN THE HANDYMAN, and )

TPDF, LLC, )

)

Defendants )

**I. INTRODUCTION**

1. The Attorney General brings this action against Daniel B. Tucci, a/k/a Dan the Handyman, and TPDF, LLC in the name of the State of Maine pursuant to the Maine Unfair Trade Practices Act, 5 M.R.S. §§ 205-A - 214 (the “UTPA”), seeking permanent injunctive relief, restitution, civil penalties, costs and attorney’s fees.

**II. PARTIES**

2. Plaintiff, State of Maine, is a sovereign state that brings this action by and through its Attorney General pursuant to 5 M.R.S. §§ 191 and 209, and the powers vested in him by common law.

3. Defendant Daniel B. Tucci (hereinafter, “Tucci”), a/k/a Dan the Handyman, is and was at all material times engaged in the business of providing home repair and maintenance services. His residential address is 104 Monument Street, Portland, Maine 04101.

4. Defendant TPDF, LLC (“TPDF”) is a Maine limited liability company that was organized in February of 2009 for “general business services, including the repair, construction, and renovation of real estate.” Tucci is the company’s sole member, and its alter ego. TPDF was administratively dissolved by the Secretary of State on December 3, 2010.

**III. JURISDICTION AND VENUE**

5. This Court has jurisdiction over this action pursuant to 4 M.R.S.

§ 105 and 5 M.R.S. § 209.

6. Venue is properly laid in Cumberland County, pursuant to 5 M.R.S. § 209.

**IV. STATUTORY BACKGROUND**

7. Pursuant to 5 M.R.S. § 207, “unfair or deceptive acts or practices in the conduct of any trade or commerce are . . . unlawful.”

8. Pursuant to 5 M.R.S. § 209:

Whenever the Attorney General has reason

to believe that any person is using or is about

to use any method, act or practice declared by

section 207 to be unlawful, and that proceedings

would be in the public interest, he may bring

an action in the name of the State against such person to restrain by temporary or permanent injunction the use of such method, act or practice and the court may make such other orders or judgments as may be necessary to restore to any person who has suffered any ascertainable loss by reason of the use or

employment of such unlawful method, act or practice, any moneys or property, real or personal, which may have been acquired by means of such method, act or practice. . . .

9. Pursuant to 5 M.R.S. § 209, each intentional violation of 5 M.R.S.

§ 207 that results from unfair or deceptive conduct is a civil violation for which a penalty of up to $10,000 may be imposed.

10. Pursuant to 14 M.R.S. § 1522(1)(A), should the State prevail in an action brought by the Attorney General to enforce 5 M.R.S. § 207, the Court shall allow litigation costs, including court costs, reasonable attorney’s fees, and reasonable expert witness fees.

**V. FACTS**

11. Since approximately 2008 or before, Tucci has been advertising his services as a handyman in publications in general circulation in southern Maine. An example of an advertisement that he ran in the *Portland Press Herald* is attached hereto as Exhibit A.

12. Tucci advertises that he is “licensed and insured.” *See* Exhibit A attached hereto.

13. In truth and in fact, Tucci holds no professional licenses.

14. Consumers who call Tucci in response to his advertisements are seeking services for home repair and maintenance.

15. Tucci targets elderly consumers who need help with home maintenance.

16. Tucci and TPDF have entered into contracts with Maine consumers for home repair and maintenance.

17. Tucci and TPDF have collected advance payments from consumers that were equivalent to 50% to 100% of the total amount of the job.

18. Tucci and TPDF have failed to perform the home repair and maintenance work that consumers paid them in advance to do.

19. Work performed by Tucci and TPDF, or those under their control and direction, is incomplete, shoddy and unworkmanlike.

20. In response to consumer complaints, Tucci has threatened and intimidated consumers and demanded more money to complete the job, or walked off the job and refused to repair the work or pay a refund.

21. By way of example and not by limitation, Tucci went to the home of a retired woman at 9:00 P.M. one evening to demand an additional $250 after she had already paid him $500 for work that he had not completed.

**COUNT I**

(False Advertising)

22. Plaintiff repeats and realleges Paragraphs 1 through 22 of this complaint.

23 Defendant Tucci has violated 5 M.R.S. § 207 by falsely advertising that his services are licensed.

24. Defendant’s conduct as described herein is intentional.

**COUNT II**

(Response to Consumer Complaints)

25. Plaintiff repeats and realleges Paragraphs 1 through 22 of this complaint.

26. Defendant Tucci has violated 5 M.R.S. § 207 by threatening and intimidating consumers who complain about his or TPDF’s work.

27. Defendant’s conduct as described herein is intentional.

**COUNT III**

(Advance Payments)

28. Plaintiff repeats and realleges Paragraphs 1 through 22 of this complaint.

29. Defendants Tucci and TPDF have violated 5 M.R.S. § 207 by collecting payments from consumers in advance for home repair and maintenance services that they fail to perform.

30 Defendants’ conduct as described herein is intentional.

**COUNT IV**

(Poor Workmanship)

31. Plaintiff repeats and realleges Paragraphs 1 through 22 of this complaint.

32. Defendants Tucci and TPDF have violated 5 M.R.S. § 207 by providing home repair and maintenance services to consumers that are incomplete, shoddy, and unworkmanlike, and by refusing to correct such work or to pay refunds.

33. Defendants’ conduct as described herein is intentional.

**RELIEF REQUESTED**

WHEREFORE, Plaintiff requests the following relief:

1. Declare that Defendant Daniel B. Tucci has violated 5 M.R.S. § 207 of the UTPA by falsely advertising that he is licensed, and by threatening and intimidating consumers in response to their complaints.

2. Declare that Defendant Daniel B. Tucci and TPDF, LLC have violated 5 M.R.S. § 207 by: collecting payment in advance from consumers for home repair and maintenance services that they have failed to perform; and providing home repair and maintenance services to consumers that are incomplete, shoddy, and unworkmanlike, and by refusing to correct such work or to pay refunds.

3. Pursuant to 5 M.R.S. § 209 and M.R. Civ. P. 65, permanently enjoin Defendants, their agents, servants, employees and those persons in active concert or participation with them who receive actual notice of the injunction from:

1. Advertising or performing any services that require them to enter a person’s home;
2. Acting as a general contractor; and/or
3. Accepting payments in advance of providing goods or services.

4. Pursuant to 5 M.R.S. § 209, determine the amount that Defendants shall provide in equitable remedies, including restitution, rescission, or the cost of repair by others, sufficient to make all consumers whole who have been injured by their unlawful practices.

5. Pursuant to 5 M.R.S. § 209, assess a civil penalty against Defendants of up to $10,000 for each intentional violation of the Unfair Trade Practices Act.

6. Pursuant to 5 M.R.S. § 209, award to the Attorney General’s Office its costs of suit and investigation, including attorney’s fees.

7. Order such other and further relief as the Court may deem necessary to remedy the effects of Defendants’ unfair and deceptive business practices.

Dated: February 27, 2012 Respectfully submitted,

WILLIAM J. SCHNEIDER

Attorney General

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