

FILED
03-12-2024
CIRCUIT COURT
DANE COUNTY, WI
2022CX000013

DATE SIGNED: March 11, 2024

Electronically signed by Diane Schlipper
Circuit Court Judge

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 3

DANE COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 22-CX-13, 13A, 13B

Complex Forfeiture: 30109

RSI, LLC, d/b/a Relief Solutions

International, et al.

Defendants.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL JUDGMENT

Upon motion by Plaintiff, the State of Wisconsin, and based on the record before the Court, the Court hereby makes these Findings of Fact and Conclusions of Law and enters Final Judgment as follows:

FINDINGS OF FACT

1. The Plaintiff in this matter is the State of Wisconsin, which has its principal offices at the State Capitol in Madison, Wisconsin. The State brought this action through the Wisconsin Department of Justice (DOJ) under the authority of Wis. Stat. § 100.20(6), based upon a referral from the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP).
2. Defendant RSI, LLC, d/b/a “Relief Solutions International” (RSI) is a limited liability company organized under the laws of Missouri.
3. Defendant Philip Russell Turner II is a natural person and a resident of the state of Missouri.
4. Defendant Burton Cummings is a natural person and a resident of the state of Missouri.

RSI’s Business Practices

5. RSI marketed and sold services to timeshare owners wishing to exit from, or terminate, their timeshare ownership interests. Specifically, RSI offered, in exchange for an upfront fee, to undertake efforts (or contract with other third parties to undertake efforts) to terminate a consumer’s legal obligations in connection with a timeshare ownership interest (the “Timeshare Termination Services”).
6. RSI marketed its Timeshare Termination Services in Wisconsin, including by causing to be sent thousands of mail solicitations addressed to individually-

identified consumers in Wisconsin (the “Mail Solicitations”) and by conducting in-person sales presentations in Wisconsin.

7. Since at least 2016, RSI sent the Mail Solicitations to individually-identified consumers throughout Wisconsin, including, but not limited to, consumers in Milwaukee, Madison, Green Bay, and Eau Claire.
8. Since approximately 2016, RSI sent at least 17,000 of the Mail Solicitations to addresses in Wisconsin, though the total number of Mail Solicitations sent to Wisconsin is likely much higher than 17,000.
9. Exhibit 1 to the Amended Complaint (Doc. No. 95 in 22-CX-13) contains copies of Mail Solicitations that RSI sent to individually-identified Wisconsin consumers that are representative of the Mail Solicitations RSI used to market its Timeshare Termination Services in Wisconsin.
10. The Mail Solicitations failed to state, in writing, the name of the principal seller, i.e., RSI. Instead, the Mail Solicitations referred variously to entities called “Owner Advisory,” “Winterfield Funding,” or “Regency Communications.”
11. RSI was not widely known by, and had not consistently done business under, the names “Owner Advisory,” “Winterfield Funding,” or “Regency Communications,” and these names have the tendency or capacity to confuse or mislead consumers as to the seller’s true identity.

12. The Mail Solicitations failed to disclose, in writing, the nature of the goods or services which the seller was offering or promoting, i.e., the Timeshare Termination Services.
13. The Mail Solicitations misrepresented the location of the principal seller, i.e., Missouri. The Mail Solicitations listed an address in Texas or California that did not correspond to any of RSI's operations.
14. The Mail Solicitations misrepresented that the seller had specifically selected the recipient to receive the offer of services promoted in the Mail Solicitation.
15. At the time RSI caused the Mail Solicitations to be sent, RSI possessed no information about a recipient's timeshare, and RSI made no individualized assessment of a recipient's situation or whether the recipient qualified for services prior to sending the Mail Solicitations.
16. The Mail Solicitations referred to a specific reference number that bore no relationship to the recipient's situation or to any individualized assessment of whether the recipient qualified for services.
17. The deadlines referred to in the Mail Solicitations bore no relationship to the status or circumstances of recipients' timeshares or their eligibility for services. Instead, the deadlines were designed to pressure recipients to call in advance of pre-scheduled sales presentations that RSI was conducting in the geographic region where the recipients were located.
18. These representations—that the recipient was determined to qualify for services, the artificial deadline, the reference number, and the fictitious

business names—created the false impression that an entity with particular knowledge about the recipient’s timeshare had specially identified the recipient as being potentially eligible to eliminate future maintenance fees and/or that the sender was making a special offer limited to a few persons and limited in duration. In truth, RSI sent out the Mail Solicitations widely and repeatedly without knowing anything about the recipient or whether the recipient even owned a timeshare.

19. In response to the Mail Solicitations sent to Wisconsin, recipients in Wisconsin called RSI and made arrangements to attend in-person sales presentations in Wisconsin.

20. On multiple occasions, in connection with sending the Mail Solicitations, representatives of RSI organized and held in-person sales presentations in Wisconsin to attempt to sell its Timeshare Termination Services to recipients of the Mail Solicitations.

21. Wisconsin consumers paid upfront retainer fees and other fees to RSI and entered into service contracts with RSI as a result of receiving a mail solicitation from RSI.

22. Specifically, the following individuals entered into service contracts with RSI and paid the following amounts to RSI as a result of receiving a mail solicitation from RSI:

- a. Monica and Patrick Bissen: \$8,350.
- b. Julia Setina: \$7,500.

c. Sharlene Kessler: \$4,350.

23. The identity and number of all Wisconsin consumers who entered into such transactions with RSI is known to RSI but not to the State.

Personal Responsibility of Defendants Turner and Cummings

24. Since approximately 2012, RSI has had two members—Nationwide Relief, LLC and Relief 360, LLC.

25. Defendant Cummings has been the sole member of Relief 360 since approximately April 2013.

26. Defendant Turner has been a member of Nationwide Relief since 2012. He owned a 50% interest in Nationwide relief until 2017, at which point he took over complete ownership of the company.

27. Through their ownership of Nationwide Relief and Relief 360, respectively, Turner and Cummings had complete operational control over RSI.

28. At all times relevant to this action, both Cummings and Turner played an active, hands-on role in the operations and activities of RSI, including RSI's marketing activities and the sending of the Mail Solicitations.

29. At all times relevant to this action, both Turner and Cummings had authority to make decisions for RSI, to direct RSI's marketing activities, to bind RSI, and to act on its behalf.

30. With regard to RSI's practice of sending the Mail Solicitations, both Turner and Cummings had final decision-making authority.

31. Both Turner and Cummings were responsible for reviewing and approving the content of the Mail Solicitations that RSI caused to be sent to consumers.
32. Both Turner and Cummings had, at all relevant times, the ability to determine the content of the Mail Solicitations that RSI caused to be sent to consumers.
33. Both Turner and Cummings had knowledge of and the ability to control where RSI caused the Mail Solicitations to be sent, and both knew that RSI caused the Mail Solicitations to be sent to Wisconsin.
34. Both Turner and Cummings had, at all relevant times, the ability to direct RSI to send or not send the Mail Solicitations to recipients in Wisconsin.
35. Turner was also responsible for overseeing RSI's call center, which was responsible for answering calls from recipients of the Mail Solicitations and urging those callers to attend RSI's in-person sales presentations.
36. Cummings was also responsible for overseeing RSI's sales presentations, including by developing the substance of the sales presentation, instructing and training RSI employees regarding the presentation, and, at times, attending and/or participating in the sales presentations.
37. Both Turner and Cummings shared in the profits RSI generated in response to RSI's marketing activities and made decisions about when RSI would make distributions to its members and in what amounts.

Defendants' Sanctionable Litigation Conduct

38. The State commenced this action on August 3, 2022. On May 31, 2023, the State filed the Amended Complaint which, among other things, added Cummings as a defendant.
39. Prior to commencing this action, in 2020 and again in 2021, DATCP sent requests for documents and information to RSI under the authority of Wis. Stat. §§ 93.15 and 100.18(11)(c)1, but RSI failed to acknowledge or respond to these requests.
40. Cummings, as the registered agent for Defendant RSI, LLC, was personally served with a copy of the Summons and Complaint and a set of discovery requests directed to RSI on August 4, 2022.
41. Turner was personally served with a copy of the Summons and Complaint and a set of discovery requests directed to him on August 4, 2022.
42. As outlined in the State's September 26 Motion (Doc. No. 117) and the filings cited therein, and as further described on the record during the November 8, 2023 hearing, the State presented evidence that the Defendants caused the destruction of relevant evidence related to RSI's business operations after receiving notice of the present action. The Defendants did not contest or controvert the State's evidence regarding the destruction of these records and data.
43. During the course of litigation, the Defendants resisted responding to discovery requests issued by the State by representing that information and documents responsive to the discovery requests were lost or destroyed prior to the

commencement of litigation. During a hearing before the Court on February 14, 2023, counsel for Defendants RSI and Turner represented to the Court that its business records were lost or destroyed prior to the commencement of the State's action.

44. As set out in the State's October 31 Motion (Doc. No. 132) and the filings cited therein, the Defendants also failed to respond in any way to discovery requests the State served in July 2023.

45. Defendant RSI also failed to obey the Court's September 29, 2023 Order, which directed RSI to retain new counsel by no later than October 28, 2023.

46. The Defendants failed to appear at a hearing on November 8, 2023, for which the Court provided notice to all parties.

47. Following the November 8 hearing, the Court entered an Order on November 9, 2023, which struck the Defendants answers to the Amended Complaint as a sanction for their litigation conduct.

CONCLUSIONS OF LAW

48. The Court has jurisdiction over this matter under Wis. Stat. § 100.20(6) and personal jurisdiction over the Defendants.

49. Venue is proper in Dane County.

50. In accordance with the Court's Order dated November 9, 2023, and Wis. Stat. § 806.02, because no issue of law or fact has been joined on any claim asserted in the Amended Complaint, and because the time for joining issue has expired,

the State is entitled to judgment according to the demand in the Amended Complaint.

51. In accordance with Wis. Stat. § 802.02(4), all of the allegations in the Amended Complaint are admitted.

52. The provisions of Wis. Admin. Code ch. ATCP 127 constitute an order issued under Wis. Stat. § 100.20.

53. The Defendants are “sellers” as that term is used in Wis. Admin. Code § ATCP 127.01(21).

54. RSI’s Timeshare Termination Services are “consumer goods or services” as that phrase is used in Wis. Admin. Code § ATCP 127.01(3).

55. The Mail Solicitations are “mail transactions” as that phrase is used in Wis. Admin. Code § ATCP 127.30(3).

56. The Defendants caused the Mail Solicitations to be delivered to Wisconsin consumers.

57. The Mail Solicitations violated Wis. Admin. Code ch. ATCP 127 as follows:

- a. The Mail Solicitations failed to disclose, in writing, the name of the principal seller, i.e., RSI, in violation of Wis. Admin. Code § ATCP 127.32(1)(a);
- b. The Mail Solicitations failed to disclose, in writing, the nature of the goods or services which the seller was offering or promoting in violation of Wis. Admin. Code § ATCP 127.32(1)(c);

- c. The Mail Solicitations used fictitious names, e.g., “Owner Advisory,” “Winterfield Funding,” and “Regency Communications,” in violation of Wis. Admin. Code § ATCP 127.32(2).
 - d. Misrepresenting the seller’s identity, affiliation, location, and/or characteristics in violation of Wis. Admin. Code § ATCP 127.44(1);
 - e. Misrepresenting the nature, quantity, material characteristics, performance, and/or efficacy of the goods or services offered or promoted in violation of Wis. Admin. Code § ATCP 127.44(5);
 - f. Misrepresenting that the seller had specially selected the consumer, in violation of Wis. Admin. Code § ATCP 127.44(10); and
 - g. Misrepresenting that the seller was conducting a special sales promotion, was making a special offer limited to a few persons, was making a special offer for a limited period of time, or was authorized to place the offered goods or services in a limited number of homes, in violation of Wis. Admin. Code § ATCP 127.44(11).
58. Each of the at least 17,000 Mail Solicitations that the Defendants caused to be delivered to an individually-identified consumer constitutes a separate violation of Wis. Admin. Code ch. ATCP 127 and is subject to a civil forfeiture in an amount not less than \$100 but no greater than \$10,000, per Wis. Stat. § 100.26(6).

59. Because of the Defendants' acts and practices, Wisconsin consumers suffered pecuniary loss. The present order and judgment is necessary to restore to those consumers such pecuniary loss.

60. With regard to the Wisconsin consumers identified in Paragraph 22 of this Order, the Court finds these consumers suffered pecuniary loss as follows:

- a. Monica and Patrick Bissen: \$8,350.
- b. Julia Setina: \$7,500.
- c. Sharlene Kessler: \$4,350

61. DATCP is entitled to payment from Defendants of \$906.50 as recovery for costs incurred in investigating and prosecuting this matter in accordance with Wis. Stat. §§ 93.20 and 100.263.

62. DOJ is entitled to payment from Defendants of \$13,148.10 as cost recovery for the reasonable and necessary expenses of prosecution, including attorney fees, in accordance with Wis. Stat. § 100.263.

63. The Defendants are jointly and severally liable for the Court's Final Judgment.

FINAL JUDGMENT

WHEREFORE, the Court enters final judgment in favor of Plaintiff and against Defendants as follows:

I. DEFINITIONS

64. The following definitions apply to the Court's Final Judgment:

- a. "Solicitation" has the same meaning as set out in Wis. Admin. Code § ATCP 127.01(22);

- b. “Timeshare Termination Services” shall mean any agreement or arrangement to terminate, modify, transfer, or otherwise dispose of an individual’s ownership of or interest in a timeshare in exchange for any payment, fee, commission, or other remuneration,
- c. “Wisconsin consumer” shall mean any individual who:
 - i. Resides in Wisconsin;
 - ii. Receives (or received) a solicitation in Wisconsin; or
 - iii. Resided in Wisconsin when purchasing or receiving Timeshare Termination Services from the Defendants.

II. PERMANENT INJUNCTION

65. In accordance with Wis. Stat. § 100.20(6), the Defendants, including their officers, agents, servants, employees, attorneys, and any persons who are in active concert or participation with them, are permanently enjoined as follows:

- a. From participating, whether directly or indirectly, in any act or practice in or directed to Wisconsin that violates Wis. Admin. Code ch. ATCP 127;
- b. From communicating or causing to be communicated any solicitation to a Wisconsin Consumer unless, at least ninety (90) days prior to communicating the solicitation, the Defendants provide notice to DATCP of their intent to communicate a solicitation and provide DATCP such information and documents regarding the proposed solicitation

that DATCP deems necessary to assess the solicitation's compliance with Wisconsin consumer protection laws; and

- c. From promoting, marketing, offering, selling, providing, or arranging to provide any Timeshare Termination Services to any Wisconsin Consumers.

III. CIVIL FORFEITURE, STATUTORY ASSESSMENTS AND SURCHARGES, AND COSTS

66. The Defendants shall pay the total sum of \$2,598,195.10 for civil forfeitures and mandatory assessments and surcharges, and for the costs of investigation and prosecution. These funds shall be apportioned as follows:

- a. The Defendants shall pay the DOJ \$14,054.60 within thirty (30) days of the entry of this Final Judgment, as reimbursement of the State of Wisconsin's costs of investigation and prosecution of this matter. Of that amount, DOJ shall remit \$906.50 to DATCP to reimburse that agency for its costs of investigation in accordance with Wis. Stat. §§ 93.20 and 100.263. DOJ shall retain the remainder to cover its costs, including attorney fees, of prosecution in accordance with Wis. Stat. § 100.263.
- b. The Defendants shall pay to the Clerk of the Dane County Circuit Court \$2,584,140.50 within thirty (30) days of entry of this Final Judgment. The Clerk of the Dane County Circuit Court, in accordance with Wisconsin statutory requirements, shall apportion this payment as follows:

- i. A civil forfeiture of \$1,700,000.00 in accordance with Wis. Stat. § 100.26(6);
- ii. a penalty surcharge of \$442,000.00 in accordance with Wis. Stat. § 757.05 (26 percent of forfeiture);
- iii. a consumer protection surcharge of \$425,000.00 in accordance with Wis. Stat. § 100.261 (25 percent of forfeiture);
- iv. a jail surcharge of \$17,000.00 in accordance with Wis. Stat. § 302.46 (1 percent of forfeiture);
- v. a crime laboratories and drug enforcement surcharge of \$26.00 in accordance with Wis. Stat. § 165.755 (\$13 per count in the Amended Complaint);
- vi. a court fee of \$25.00 in accordance with Wis. Stat. § 814.63;
- vii. a court support services surcharge of \$68.00 in accordance with Wis. Stat. § 814.85; and
- viii. a justice information system surcharge of \$21.50 in accordance with Wis. Stat. § 814.86.

IV. RESTITUTION PAYMENT

67. In accordance with Wis. Stat. § 100.20(6), the Court orders the Defendants to make payments as follows to restore pecuniary loss Wisconsin consumers experienced as a result of the Defendants' conduct.

68. Within thirty (30) days of entry of this Final Judgment, the Defendants shall pay \$20,200 to the DOJ. The DOJ shall use this payment to pay restitution to the following Wisconsin consumers as follows:

- a. Monica and Patrick Bissen: \$8,350.
- b. Julia Setina: \$7,500.
- c. Sharlene Kessler: \$4,350

69. Within five (5) years of entry of this Final Judgment, any other Wisconsin consumer who paid any fee to the Defendants for Timeshare Termination Services may petition this Court for a specific restitution order requiring the Defendants to make payment to such consumer in the amount stated in the petition within thirty (30) days of the Court's specific restitution order.

- a. Any petition filed with the Court under this Paragraph must include a sworn certification that the consumer:
 - i. Resided in Wisconsin when they received a Mail Solicitation from Defendants, paid a fee to the Defendants, or received services from the Defendants;
 - ii. Made payment(s) to the Defendants for Timeshare Termination Services and the total amount of such payment(s);
 - iii. Has not already received a refund from the Defendants of any payment(s) made to the Defendants; and
 - iv. Provided notice of their petition to Defendants as required herein.

- b. A completed petition in substantially the same form as Appendix A to this Final Judgment shall satisfy the requirements of this Paragraph.
- c. Any consumer filing a petition under this paragraph shall also provide notice of their petition to Defendants by mailing a copy of their petition to: RSI, LLC, c/o Burton Cummings, 402 Christopher Drive, Branson, MO 65616.
- d. Upon request from the Court, the consumer shall submit such additional information as the Court requests.
- e. Upon a consumer's satisfaction of the requirements of this Paragraph, the Court may issue a specific restitution order requiring the Defendants to pay the amount provided in the order.

V. CONTINUING JURISDICTION

70. Jurisdiction is retained by this Court for the purposes of enforcing the terms of this Final Judgment as permitted by law.

This is a final order for purposes of appeal.

APPENDIX A

Sworn Certification in Support of Request for Restitution in Accordance with Final Judgment Entered in *State v. RSI, LLC*, Dane County Cir. Ct. Case No. 22-CX-13.

1. My name is: _____
2. I resided in Wisconsin when I (check all that apply):
 - Received a mail solicitation from RSI, LLC
 - Paid a fee to RSI, LLC
 - Received services from RSI, LLC
3. I made payments to RSI, LLC for Timeshare Termination Services in the amount of: \$_____.
4. I have not already received any refund from RSI, LLC for any of the payments described in Paragraph 3.
5. I have provided notice of this Petition to the Defendants by mailing a copy of the Petition to: RSI, LLC, c/o Burton Cummings, 402 Christopher Drive, Branson, MO 65616.

I have read the foregoing sworn certification and know the contents therein, the same being true and correct to the best of my information and knowledge.

Signature

Subscribed and sworn to before me
this ____ day of _____, 202__.

Notary Public, State of _____