

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202</p> <hr/> <p>STATE OF COLORADO, ex rel. JOHN W. SUTHERS, ATTORNEY GENERAL</p> <p>Plaintiff,</p> <p>v.</p> <p>AIR DUCT EXPERT, LLC <i>dba</i> AIR DUCT EXPERT and DTD AIR DUCT CLEANING, and ROMAN AYLYAROV and STAN AYLYAROV, Individually</p> <p>Defendants.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
	<p>Case No.</p>
<p><b>(PROPOSED) FINAL CONSENT JUDGMENT</b></p>	

This matter is before the Court on the parties' stipulation for entry of a Final Consent Judgment. The Court has reviewed the proposed Final Consent Judgment and the Complaint and is otherwise advised in the grounds therefore. The Court concludes that good cause has been shown for entering this Final Consent Judgment.

Accordingly, IT IS ORDERED that:

## I. GENERAL PROVISIONS

1.1 Scope of Final Consent Judgment. The injunctive provisions of this Final Consent Judgment are entered pursuant to the Colorado Consumer Protection Act, §§ 6-1-101, *et. seq.* C.R.S. (2013) (“CCPA”). This Final Consent Judgment shall apply to Defendants AIR DUCT EXPERT, LLC *dba* AIR DUCT EXPERT and DTD AIR DUCT CLEANING; ROMAN AYLYAROV, Individually; and STAN AYLYAROV, Individually (collectively, “DEFENDANTS”) and any person under their direction or control, including but not limited to, any principals, officers, directors, agents, employees, representatives, successors, affiliates, subsidiaries, contractors, and assigns who has received actual notice of this Final Consent Judgment.

1.2 Release of Claims. The State of Colorado, *Ex Rel.* John W. Suthers, Attorney General (hereinafter, the “STATE”), acknowledges by its execution hereof that this Final Consent Judgment constitutes a complete settlement and release of all claims under the CCPA on behalf of the STATE against DEFENDANTS with respect to all claims, causes of action, damages, fines, costs, and penalties which were asserted or could have been asserted under the CCPA in the Complaint, that arose prior to this date and relating to or based upon the acts or practices which are the subject of the Complaint filed in this action. The STATE agrees that it shall not proceed with or institute any civil action or proceeding based upon the CCPA against DEFENDANTS, including but not limited to an action or proceeding seeking restitution, injunctive relief, fines, penalties, attorneys’ fees, or costs, for any communication disseminated prior to this date which relates to the subject matter of the Complaint filed in this action or for any conduct or practice prior to the date of entry of this Final Consent Judgment which relates to the subject matter of the Complaint filed in this action.

1.3 Preservation of Law Enforcement Action. Nothing herein precludes the STATE from enforcing the provisions of this Final Consent Judgment, from pursuing any non-CCPA law enforcement action, or from pursuing any law enforcement action under the CCPA with respect to the acts or practices of DEFENDANTS not covered by this lawsuit and Final Consent Judgment or any acts or practices of DEFENDANTS conducted after the date of this Final Consent Judgment.

1.4 Compliance with and Application of State Law. Nothing herein relieves DEFENDANTS of their duty to comply with applicable laws of the State of Colorado nor constitutes authorization by the STATE for the DEFENDANTS to engage in

acts and practices prohibited by such laws. This Final Consent Judgment shall be governed by the laws of the State of Colorado.

1.5 Non-Approval of Conduct. Nothing herein constitutes approval by the STATE of the DEFENDANTS' past or future business practices. DEFENDANTS shall not make any representation contrary to this paragraph.

1.6 Preservation of Private Claims and Relation to Private Settlements. Unless otherwise noted, nothing herein shall be construed as waiver of any private rights, causes of action, or remedies of any person against DEFENDANTS with respect to the acts and practices covered by this Final Consent Judgment.

1.7 Use of Settlement as Defense. DEFENDANTS acknowledge that it is the STATE's customary position that an agreement restraining certain conduct on the part of a defendant does not prevent the STATE from addressing later conduct that could have been prohibited, but was not, in the earlier agreement, unless the earlier agreement expressly limited the STATE's enforcement options in that manner. Therefore, nothing herein shall be interpreted to prevent the STATE from taking enforcement action to address conduct occurring after the entry of this Final Consent Judgment that the STATE believes to be in violation of the law. The fact that such conduct was not expressly prohibited by the terms of this Final Consent Judgment shall not be a defense to any such enforcement action.

1.8 Use of Settlement in Business Activity. Under no circumstances shall this Final Consent Judgment or the name of the Attorney General or any of the STATE's employees or representatives be used by DEFENDANTS or any of their employees, representatives, or agents in conjunction with any marketing or other business activity, including responses to consumer complaints.

1.9 Retention of Jurisdiction. This Court shall retain jurisdiction over this matter for the purpose of enabling any party to this Final Consent Judgment to apply to the Court at any time for any further orders which may be necessary or appropriate for the construction, modification or execution of this Final Consent Judgment, and for the enforcement of compliance herewith and the punishment of violations hereof.

1.10 Contempt. The parties understand and agree that any violation of any term or provision of this Final Consent Judgment shall give rise to all contempt remedies available to the Court, including those provided under § 6-1-112(1)(b), C.R.S. (2012).

1.11 Execution in Counterparts. This Final Consent Judgment may be executed in counterparts.

1.12 Severability. If any provision(s) of this Final Consent Judgment is held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

1.13 Successors in Interest. The terms and provisions of this Final Consent Judgment may be enforced by the current Colorado Attorney General, and by any of his agents or representatives, as well as by any of his successors in interest, and by any of his successors in interest's agents or representatives.

1.14 Bankruptcy. In the event any of the DEFENDANTS file a petition for bankruptcy within one hundred days of their payments to the STATE and if the STATE must return any portion of the money it has collected pursuant to this Final Consent Judgment to the bankruptcy estate, then a judgment shall enter against DEFENDANTS, jointly and severally, for three thousand (\$3,000.00) in favor of the STATE.

1.15 Amendment. This Final Consent Judgment may be amended solely by written agreement signed by the STATE and by the DEFENDANTS.

## **II. DEFINITIONS**

2.3 Unless otherwise stated herein, all terms herein that are defined in the CCPA shall be given the definition provided by the CCPA.

## **III. PERMANENT INJUNCTION**

3.1 This Court PERMANENTLY ENJOINS AIR DUCT EXPERT, LLC, and any other person under its control or at its direction who receives actual notice of this Order, from operating, maintaining, directing, participating in, entering into contracts related to, investing in, or receiving payment or remuneration of any kind in connection with the business of air duct cleaning.

3.2 This Court PERMANENTLY ENJOINS ROMAN AYLYAROV, and any other person under his control or at his direction who receives actual notice of this Order, from operating, maintaining, directing, participating in, entering into contracts related to, investing in, or receiving payment or remuneration of any kind in connection with the business of air duct cleaning.

3.3 This Court PERMANENTLY ENJOINS STAN AYLYAROV, and any other person under his control or at his direction who receives actual notice of this Order, from operating, maintaining, directing, participating in, entering into contracts

related to, investing in, or receiving payment or remuneration of any kind in connection with the business of air duct cleaning.

#### IV. MONETARY PROVISIONS

4.1 This Court orders DEFENDANTS, jointly and severally, to pay a total amount of \$3,000.00 in fines, penalties, restitution, damages and costs and fees. All payments under this Section IV shall be paid to the Colorado Department of Law to be held along with any interest thereon in trust by the Attorney General to be used first for reimbursement of the State's actual costs and attorney fees and, second, to be held along with any interest thereon, in trust by the Attorney General for future consumer education, consumer fraud, or antitrust enforcement actions. C.R.S. § 6-1-110.

4.2 Such \$3,000.00 shall be paid on the following schedule. \$1,000.00 shall be paid upon execution of this Final Consent Judgment. Thereafter, DEFENDANTS shall make two additional (2) monthly payments of \$1,000.00 until the balance of the judgment is paid in full. Such payments shall be made on the 28th day of the month, beginning in the month immediately following the execution of this Final Consent Judgment.

4.3 In the event DEFENDANTS fail to make a payment under this section, the State shall make its best efforts to provide DEFENDANTS written notice of default and provide DEFENDANTS with 15 days to cure the default. If DEFENDANTS fail to cure the default, the State may petition the Court alleging a violation of this Final Consent Judgment. In any such action, DEFENDANTS consent to an amendment of this Final Consent Judgment accelerating the due date for all payments that are to be made under this Final Consent Judgment. Specifically, DEFENDANTS consent to an amendment of this Final Consent Judgment providing that the total amount of all payments remaining under this Final Consent Judgment is due and payable immediately upon the amendment of this Final Consent Judgment.

4.4 All payments shall be made payable to the Colorado Department of Law with a reference to *State v. Air Duct Expert, LLC et al.* and shall be delivered to:

Jeffrey M. Leake  
Assistant Attorney General  
Consumer Fraud Unit  
1300 Broadway – 7<sup>th</sup> Floor  
Denver, Colorado 80203

4.5 In the event the judgment is accelerated under § 4.3, above, Plaintiff shall retain the right to complete all post-judgment discovery allowed by Colorado law, including discovery under Colorado Rule of Civil Procedure 69.

**V. REPRESENTATIONS AND WARRANTIES**

5.1 Except as expressly provided in this Final Consent Judgment, nothing in this Final Consent Judgment shall be construed as relieving DEFENDANTS of their respective obligations to comply with all state and federal laws, regulations or rules, or granting permission to engage in any acts or practices prohibited by such law, regulation or rule.

5.2 Due to the public-interest nature of the STATE's claims in this matter, DEFENDANTS hereby specifically agree and stipulate that the monetary obligation imposed hereunder constitutes a debt for a fine, penalty or forfeiture payable to and for the benefit of a governmental unit, is not compensation for actual pecuniary loss and is specifically non-dischargeable under 11 U.S.C.A. § 523(a)(7).

5.3 DEFENDANTS acknowledge that they have thoroughly reviewed this Final Consent Judgment with their counsel, that they understand and agree to its terms, and that they agree that it shall be entered as an Order of this Court.

5.4 Each of the non-Court signatories to this Final Consent Judgment warrants and represents that he or she has authority to agree to this Final Consent Judgment on behalf of the specified parties.

**IV. VIOLATIONS OF CONSENT JUDGMENT**

6.1 Proof by a preponderance of the evidence of a violation of any of the terms of this Final Consent Judgment shall constitute a prima facie violation of the CCPA under C.R.S. § 6-1-110(2). Upon any violation of any of the terms of this Final Consent Judgment, the STATE shall be entitled to file a civil action in any court of competent jurisdiction and to seek an injunction or other appropriate order from such court to enforce the provisions of this Final Consent Judgment.

This Consent Judgment Concerning the DEFENDANTS, signed and agreed to this 3<sup>rd</sup> day of July, 2013.

*David Smith*

*Roman Alylarov*

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Attorneys for DEFENDANTS

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ROMAN AYLYAROV

*Stan Aylyarov*

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STAN AYLYAROV

In all respects, on behalf of the Plaintiff the State of Colorado, *ex rel.*  
JOHN W. SUTHERS, Attorney General and

*Jeffrey M. Leake*

---

JEFFREY M. LEAKE\*, Reg. No. 38338

Assistant Attorney General

JAY SIMONSON\*, Reg. No. 24077

First Assistant Attorney General

Consumer Fraud Unit

Consumer Protection Section

Office of the Colorado Attorney General

Attorneys for Plaintiffs

\*Counsel of Record

SO ORDERED and SIGNED this \_\_\_\_ day of \_\_\_\_\_, 2013.

BY THE COURT:

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District Court Judge

DISTRICT COURT, DENVER COUNTY, COLORADO Court Address: 1437 Bannock Street, Rm 256, Denver, CO, 80202	DATE FILED: July 10, 2013 11:50 AM  <p style="text-align: center;"><b>⚠ COURT USE ONLY ⚠</b></p>
<b>Plaintiff(s)</b> STATE OF COLORADO et al. v. <b>Defendant(s)</b> AIR DUCT EXPERT LLC DBA AIR DUCT EXPERT et al.	
<b>ORDER ADOPTING AND GRANTING FINAL CONSENT JUDGMENT</b>	

Case Number: 2013CV33044  
 Division: 203      Courtroom:

The motion/proposed order attached hereto: GRANTED.

The Court has reviewed the attached Final Consent Judgment entered into between the parties. The Court approves that Final Consent Judgment and adopts it as an Order of this Court.

Issue Date: 7/10/2013



EDWARD DAVID BRONFIN  
 District Court Judge

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202</p> <hr/> <p>STATE OF COLORADO, ex rel. JOHN W. SUTHERS, ATTORNEY GENERAL</p> <p>Plaintiff,</p> <p>v.</p> <p>AIR DUCT EXPERT, LLC <i>dba</i> AIR DUCT EXPERT and DTD AIR DUCT CLEANING, and ROMAN AYLYAROV and STAN AYLYAROV, Individually</p> <p>Defendants.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
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3.2 This Court PERMANENTLY ENJOINS ROMAN AYLYAROV, and any other person under his control or at his direction who receives actual notice of this Order, from operating, maintaining, directing, participating in, entering into contracts related to, investing in, or receiving payment or remuneration of any kind in connection with the business of air duct cleaning.

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Jeffrey M. Leake  
Assistant Attorney General  
Consumer Fraud Unit  
1300 Broadway – 7<sup>th</sup> Floor  
Denver, Colorado 80203

4.5 In the event the judgment is accelerated under § 4.3, above, Plaintiff shall retain the right to complete all post-judgment discovery allowed by Colorado law, including discovery under Colorado Rule of Civil Procedure 69.

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5.2 Due to the public-interest nature of the STATE's claims in this matter, DEFENDANTS hereby specifically agree and stipulate that the monetary obligation imposed hereunder constitutes a debt for a fine, penalty or forfeiture payable to and for the benefit of a governmental unit, is not compensation for actual pecuniary loss and is specifically non-dischargeable under 11 U.S.C.A. § 523(a)(7).

5.3 DEFENDANTS acknowledge that they have thoroughly reviewed this Final Consent Judgment with their counsel, that they understand and agree to its terms, and that they agree that it shall be entered as an Order of this Court.

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This Consent Judgment Concerning the DEFENDANTS, signed and agreed to this 3<sup>rd</sup> day of July, 2013.

*David Smith*

*Roman Alylarov*

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Attorneys for DEFENDANTS

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ROMAN AYLYAROV

*Stan Aylyarov*

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STAN AYLYAROV

In all respects, on behalf of the Plaintiff the State of Colorado, *ex rel.*  
JOHN W. SUTHERS, Attorney General and

*Jeffrey M. Leake*

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JEFFREY M. LEAKE\*, Reg. No. 38338

Assistant Attorney General

JAY SIMONSON\*, Reg. No. 24077

First Assistant Attorney General

Consumer Fraud Unit

Consumer Protection Section

Office of the Colorado Attorney General

Attorneys for Plaintiffs

\*Counsel of Record

SO ORDERED and SIGNED this \_\_\_\_ day of \_\_\_\_\_, 2013.

BY THE COURT:

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District Court Judge