



**GRANTED**

Movant shall serve copies of this ORDER on any pro se parties, pursuant to CRCP 5, and file a certificate of service with the Court within 10 days.

**Dated: Apr 16, 2012**

*Ann B. Frick*

**Ann B. Frick  
District Court Judge**

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202	DATE OF ORDER INDICATED ON ATTACHMENT
STATE OF COLORADO, ex rel. JOHN W. SUTHERS, Attorney General,  Plaintiff,  v.  RMI (RECOVERMYINVESTMENT) INC., RUSSELL BRYANT III, AND DAMON SMITH, INDIVIDUALLY,  Defendants.	<b>EFILED Document</b> <b>CO Denver County District Court 2nd JD</b> <b>Filing Date: Apr 16 2012 5:16PM MDT</b> <b>Filing ID: 43710405</b> <b>Review Clerk: Ashley Landis</b>
JOHN W. SUTHERS, Attorney General JAY B. SIMONSON First Assistant Attorney General, 24077* DAVIN DAHL, #40439 Special Assistant Attorney General 1525 Sherman Street, 7 <sup>th</sup> Floor Denver, CO 80203 (303) 866-5162 (303) 866-4916 Fax *Counsel of Record	<b>▲ COURT USE ONLY ▲</b>
<b>STIPULATED CONSENT JUDGMENT WITH RUSSELL BRYANT, III, DAMON SMITH, AND RMI (RECOVERMYINVESTMENT) INC.</b>	

This matter is before the Court on the parties' Stipulation for Consent Judgment with Russell Bryant, III, Damon Smith, and RMI, Inc. (Recovermy investment). (Consent Judgment). The Court has reviewed the Consent Judgment and is otherwise advised on the matters therefore. The Court concludes that good cause has been shown for entering this Consent Judgment.

Accordingly **IT IS ORDERED** that:

**GENERAL PROVISIONS**

1. Scope of Consent Judgment. The injunctive provisions of this Consent Judgment are entered pursuant to the Colorado Consumer Protection Act, § § 6-1-10 1 *et. seq.*, C.R.S. (2011) ("CCPA). This Consent Judgment's injunctive terms shall apply to (i) DEFENDANT RUSSELL BRYANT, individually, and any other person under his

control or at his direction, including but not limited to, any principals, officers, directors, agents, employees, representatives, successors, affiliates, subsidiaries, contractors, and assigns who receives actual notice of this Court's Order and ii) DEFENDANT DAMON SMITH, individually, and any other person under his control or at his direction, including but not limited to, any principals, officers, directors, agents, employees, representatives, successors, affiliates, subsidiaries, contractors, and assigns who receives actual notice of this Court's Order.

2. Release of Claims. The State of Colorado acknowledges by its execution hereof that this Consent Judgment constitutes a complete settlement and release of all claims on behalf of the STATE OF COLORADO ex rel. JOHN W. SUTHERS, ATTORNEY GENERAL, against individual Defendants RUSSELL BRYANT, III ("BRYANT") and DAMON SMITH ("SMITH") and corporate Defendant RMI (RECOVERMY INVESTMENT) INC., with respect to all claims, causes of action, damages, fines, costs, and penalties which were asserted or could have been asserted in the Complaint, that arose prior to this date under the above-cited consumer protection statutes and relating to or based upon the acts or practices which are the subject of the Complaint filed in this action. Notwithstanding the foregoing, the STATE may institute an action or proceeding to enforce the terms and provisions of this Consent Judgment or to take action based on future conduct by BRYANT or SMITH. This Consent Judgment releases DAILY DEAL 360 from any liability and dismisses all claims against DAILY DEAL 360.

3. Preservation of Law Enforcement Action. Nothing herein precludes the STATE from enforcing the provisions of this Consent Judgment, or from pursuing any law enforcement action with respect to the acts or practices of BRYANT or SMITH not covered by this lawsuit, or any acts or practices of BRYANT or SMITH conducted after the date of this Consent Judgment.

4. Compliance with and Application of State Law. Nothing herein relieves BRYANT or SMITH of his duty to comply with applicable laws of the State of Colorado nor constitutes authorization by the STATE for BRYANT or SMITH to engage in acts and practices prohibited by such laws. This Consent Judgment shall be governed by the laws of the State of Colorado.

5. 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 BRYANT or SMITH with respect to the acts and practices covered by this Consent Judgment.

6. Retention of Jurisdiction. This Court shall retain jurisdiction over this matter for the purpose of enabling any party to this 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 Consent Judgment, and for the enforcement of compliance herewith and the punishment of violations hereof.

7. Public Record. Pursuant to § 6-1-112(2), C.R.S. (2009), this Consent Judgment shall be a matter of public record.

8. Contempt. The parties understand and agree that any violation of any term or provision of this Consent Judgment, including any material misrepresentations made on the financial affidavits submitted by Defendants in conjunction with this Consent Decree, shall give rise to the contempt remedies of Colo. Rule of Civil Procedure 107.

9. Execution in Counterparts. This Consent Judgment may be executed in counterparts.

### **PERMANENT INJUNCTION**

10. This Court Order PERMANENTLY ENJOINS BRYANT and SMITH, and any other person under his control or at his direction from working for or operating any company similar to RMI and from engaging in any sales like those conducted by RMI. The enjoined activity includes any work in consumers litigation assistance, consumer restitution recovery, consumer advocacy, consumer representation, or any similarly related field.

### **MONETARY PROVISIONS**

11. BRYANT AND SMITH agree to pay to the Colorado Department of Law \$300,000. BRYANT AND SMITH are jointly and severably liable for the total amount of \$300,000.

12. The STATE'S agreement to accept this discounted amount in judgment is based, in part, upon the current financial condition of BRYANT and SMITH as sworn to in their respective financial affidavits to be provided to the STATE in conjunction with this Consent Judgment. Defendants SMITH and BRYANT agree that any material misrepresentations made within their financial affidavit constitute contempt. Defendants further agree that the State may petition this Court for an increase in the monetary award under this judgment in the event of any material misrepresentations and that the \$300,000 monetary award awarded herein will remain payable in full.

13. Payments on this judgment shall be made payable to State of Colorado Department of Law and include a reference of "RMI 11CV5975". Deliver payments to: Colorado Attorney General, ATTN: Consumer Fraud Unit, 1525 Sherman Street, 7th Floor, Denver, CO 80203.

14. Any payments from this fund will be made at the discretion of the Colorado Attorney General. Any monies not paid from this fund will revert to the Colorado Attorney General and shall be held 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. The state may use any or none of the fund for restitution to consumers.

15. Willful failure to pay the monetary terms of this Consent Judgment will constitute contempt of this Court.

16. Due to the public interest nature of the STATE's claims in Case No. 11CV5975, BRYANT and SMITH hereby 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 nondischargeable in bankruptcy.

Dated this 11<sup>th</sup> day of April, 2012.

*/s/ Jay B. Simonson*

---

JAY B. SIMONSON, 24077\*  
First Assistant Attorney General  
Consumer Protection Unit  
Consumer Fraud Section  
Attorneys for Plaintiff  
\*Counsel of Record

*/s/ Russell Bryant, III*

---

RUSSELL BRYANT, III  
DEFENDANT, Individually and for RMI

*/s/ Damon Smith*

---

DAMON SMITH  
DEFENDANT, Individually and for RMI

SO ORDERED AND SIGNED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2012.

BY THE COURT

---

DISTRICT COURT JUDGE

This document constitutes a ruling of the court and should be treated as such.

**Court:** CO Denver County District Court 2nd JD

**Judge:** Ann B Frick

**Alternate Judge:** Unassigned

**File & Serve**

**Transaction ID:** 43606843

**Current Date:** Apr 16, 2012

**Case Number:** 2011CV5975

**Case Name:** STATE OF COLO et al vs. RMI INC RECOVERMYINVESTMENT et al

**Court Authorizer:** Ann B Frick

---

**Court Authorizer**

**Comments:**

The trial date is hereby vacated and the case is dismissed with prejudice.

*/s/ Judge Ann B Frick*