

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202	
STATE OF COLORADO, ex rel. JOHN W. SUTHERS, ATTORNEY GENERAL Plaintiff, v. THE FINEST DUCT CLEANING, INC; AMERICA'S FINEST DUCT CLEANING, INC.; AMERICAN AIR DUCT CLEANING, INC.; and VACHAGAN GASPARYAN and KRISTINE PETROSYAN, Individually Defendants	
JOHN W. SUTHERS, Attorney General MARK T. BAILEY, 36861* Assistant Attorney General JAY B. SIMONSON, 24077* First Assistant Attorney General Ralph L. Carr Judicial Center 1300 Broadway, 7 th Floor Denver, CO 80203 Telephone: (720) 508-6000 FAX: (720) 508-6040 *Counsel of Record	▲ COURT USE ONLY ▲ Case No.
COMPLAINT	

INTRODUCTION

1. This is an action brought by the State of Colorado pursuant to the Colorado Consumer Protection Act, §§ 6-1-101 *et seq.*, C.R.S. (2013) (“CCPA”), to enjoin and restrain Defendants from engaging in certain unlawful deceptive trade

practices, for statutorily mandated civil penalties, for disgorgement, restitution, and other relief as provided in the CCPA.

2. Defendants have deceived thousands of consumers through false and misleading advertisements that vastly understate Defendants' prices for air duct cleaning. Advertising air duct cleaning for prices as low as \$34.99, Defendants induced consumers to schedule appointments in their homes with Defendants' technicians. Upon arriving at consumers' homes, Defendants' technicians quoted and charged prices that were several times higher than the advertised price. Defendants also misrepresented the quality of their services, tools, and technicians, and engaged in a pattern of doing shoddy, incomplete work and charging for unperformed work and unnecessary services.

PARTIES

3. John W. Suthers is the duly appointed Attorney General of the State of Colorado and is authorized under C.R.S. § 6-1-103 to enforce the provisions of the CCPA.

4. Defendant The Finest Duct Cleaning, Inc. ("The Finest") is a Colorado Limited Liability Company formed on February 8, 2011, with a principal place of business at 2620 South Parker Road, Suite 164, Aurora, Colorado, 80014.

5. Defendant America's Finest Duct Cleaning, Inc. ("America's Finest") is a New York corporation that began doing business in Colorado in December 2009. America's Finest withdrew its authority to do business in Colorado on August 18, 2011.

6. Defendant American Air Duct Cleaning ("American") is a New York corporation that conducted business in Colorado in the 2008-2010 timeframe.

7. Defendant Vachagan Gasparyan owns and controls the business operations of The Finest. Mr. Gasparyan also had an ownership interest in and controlled the business practices of America's Finest and owned and controlled American. Mr. Gasparyan currently resides at 4999 South Elkhart Way, Aurora, Colorado 80015.

8. Defendant Kristine Petrosyan is a Manager of The Finest and receives income from The Finest. Along with Defendant Gasparyan, Ms. Petrosyan owned America's Finest. Ms. Petrosyan was also President of America's Finest. On information and belief, Ms. Petrosyan also controlled the business operations of American. Ms. Petrosyan currently resides at 4999 South Elkhart Way, Aurora, Colorado 80015.

ACTS OF AGENTS

9. Whenever reference is made in this Complaint to any act or practice of Defendants, such allegation shall be deemed to mean that the principals, owners, employees, independent contractors, agents, and representatives of such Defendants performed, directed, or authorized such act or practice on behalf of said Defendants, while actively engaged in the scope of their duties.

JURISDICTION AND VENUE

10. Pursuant to C.R.S. §§ 6-1-103 and 6-1-110, this Court has jurisdiction to enter appropriate orders prior to and following an ultimate determination of liability.

11. The violations alleged herein occurred, in part, in Denver County. Therefore, venue is proper in Denver County, Colorado, pursuant to C.R.S. § 6-1-103 and Colo. R. Civ. P. 98 (2013).

RELEVANT TIMES

12. The conduct that gives rise to the claims for relief contained in this Complaint began occurring in December 2009, and continues today. This action is timely brought pursuant to C.R.S. § 6-1-115 in that it is brought within three years of the date on which false, misleading, and deceptive acts or practices occurred and/or were discovered, and the series of false, misleading, and deceptive acts are continuing.

PUBLIC INTEREST

13. Through the unlawful practices of their business or occupation, Defendants have deceived, misled, and financially injured consumers in Colorado and other States. Further, Defendants have taken market share from their competitors who do not engage in deceptive trade practices. Therefore, these legal proceedings are in the public interest and are necessary to safeguard citizens from Defendants' unlawful business activities.

PERSONAL LIABILITY

14. This action is brought against corporate Defendants The Finest, America's Finest and American. This action is also brought against Defendants Gasparyan and Petrosyan, individually. At all relevant times, Defendants Gasparyan and Petrosyan conceived of, directed, participated in, and controlled the

deceptive business practices committed by The Finest, America's Finest, and American.

GENERAL ALLEGATIONS

I. Background on Defendants' Business

15. Defendants provide residential air duct cleaning services in the Denver metropolitan area. Defendants also have or had operations in Nebraska and New York that Defendants controlled from Colorado.

16. The process of cleaning a residential air duct system involves work on several distinct parts of the home's heating and cooling system. Attached hereto as **Exhibit A** is a depiction of a typical residential air duct system. Doing business as The Finest, Defendants provided **Exhibit A** to their technicians as part of a booklet that the technicians brought with them to consumers' homes.

17. A home's air duct system circulates air throughout the house through ducts and registers. *See* **Exhibit A**. The typical system contains at least one "supply" duct, which supplies warm air from the furnace to the registers that blow the warm air into the home. *See id.* Most homes contain ten or more warm-air registers. The typical system also contains at least one "return" duct. The return duct takes air from the home and circulates it back to the furnace, where it is heated up before being re-circulated through the supply duct as warm air. The return duct is fed by return registers, which, like main registers, open into the house. These return registers take air from the house and circulate it through the system. *See id.* Many homes contain additional supply and return ducts.

II. Defendants' Deceptive Trade Practices

18. Defendants' business practices have generated several dozen consumer complaints through the Denver/Boulder Better Business Bureau ("BBB") and the Attorney General's consumer complaint intake system. Consumers complain that Defendants' coupons quote one price, but once Defendants' technicians are in consumers' homes, the price increases by a factor of several times the coupon price. Consumers also complain that Defendants do shoddy and incomplete work. According to consumers, Defendants often leave dirt and debris in the duct system, fail to properly repair "access panels" drilled by Defendants into the ductwork, and sometimes leave consumers' homes in worse shape than before they arrived.

A. The Finest's Advertised Prices Are Far Lower Than its Actual Price

19. The Finest has advertised through a number of sources, including coupon books called “Valpak,” on The Finest’s Websites, and through internet-based coupon sites such as Groupon and Living Social.

20. The Finest has advertised its residential air duct cleaning services for prices ranging from \$34.99, \$49.00, \$59.00, \$84.99, to \$269.00.

21. In scheduling appointments, The Finest gives consumers a two-hour window for when the technician will arrive. Consumers responding to one of The Finest’s advertisements must plan on being at home for this two-hour time period, plus the time it takes The Finest to complete the service. Consumers often take time off from work and otherwise alter their schedule to let Defendants into their homes.

22. Upon arriving at consumers’ homes, The Finest’s technicians reveal that the coupons only cover certain services and then inform consumers of The Finest’s true price. The cost is frequently several hundred dollars or more and is almost always several times higher than The Finest’s advertised price.

23. Defendants know that a complete and thorough cleaning of a typical air duct system requires more than just the items listed on The Finest’s coupons. Because air is cycled through all parts of the system, to leave one part of the system uncleaned would result in dust and contaminants being spread throughout the system, thus defeating the purpose of the cleaning.

24. Defendants also know that their air duct cleaning services cost far more than their advertised price. The written materials Defendants provide to their own technicians state that “duct cleaning services typically – but not always – range in cost from \$450 to \$1,000 per heating and cooling system.”

25. Further, the Finest’s own records show that they charge far more than the prices they advertise. Plaintiff has conducted a review of all of The Finest’s service contracts for duct cleanings for the year 2012. There were 2,808 such contracts.¹ The service contracts reveal that the average charge for The Finest’s duct cleaning service was \$303.16.

26. The service contracts also show that the estimates given by The Finest’s technicians were often substantially more than \$300. Some consumers paid these higher amounts; in other instances, the Finest’s technicians negotiated

¹ 355 service contracts were excluded from this analysis because they were for services other than duct cleaning, such as chimney cleaning or dryer vent cleaning, contained partial or insufficient data, did not clearly show the price actually charged, or were otherwise unusable.

price reductions or agreed to complete additional “free” services if the consumer would pay the amount of estimate.

27. The Finest’s technicians are paid by commission, garnering 10%-20% of the amount paid by each consumer. Thus, Defendants give their technicians a financial incentive to inflate the cost to consumers.

i. Defendants’ \$34.99 “Whole House” Coupon

28. Until approximately October 2012, The Finest ran a coupon in “Valpak” coupon books that advertised a “Whole House Air Duct Cleaning Package” for “\$34.99.” The coupon stated in bold letters, “ONE LOW PRICE!!!” and “***NO HIDDEN CHARGES!***” **Exhibit B**.

29. The coupon listed certain specific services that would be included in the “package.” **Exhibit B**. However, as Defendants knew, a complete air duct cleaning would require additional services and would cost far more than \$34.99. Almost every residence requires services beyond those that The Finest would provide for \$34.99, including a return duct and additional return vents. Defendants also knew that many residences contain additional ducts and that The Finest would charge extra to clean certain parts of the furnace. These additional charges were not explained to consumers until after Defendants’ technicians arrived at their home.

30. Some versions of the coupon contained disclaimers, but the disclaimers did not contradict or dispel the notion that Defendants would complete a “Whole House” duct cleaning for “one low price” of “\$34.99,” with “no hidden charges.” In fact, the disclaimer, “Some Systems Slightly Higher,” *see* **Exhibit B**, is false and misleading in itself, because Defendants’ own records show that their actual average charges are nearly nine times higher than \$34.99.

31. The \$34.99 coupon also falsely stated that the regular price for the listed service was \$189.99, suggesting that the \$34.99 was a price reduction. Defendants have no “regular price” for their air duct cleaning package. Instead, The Finest’s prices fluctuate at the whim of Defendants and their technicians. Even the “regular” price of \$189.99 is at least \$100 less than The Finest’s actual average charge for air duct cleanings.

32. Around October 2012, The Finest began using a slightly modified version of the \$34.99 coupon. The new coupon offered a “Residential Air Duct Cleaning Package” (rather than a “Whole House” package), and did not claim that there was “one low price.” However, the coupon still offered a price of \$34.99, listed the same services, and stated, in bold print, “***NO HIDDEN CHARGES!***”

ii. The Finest's \$84.99 and \$269.00 Website Advertisements

33. The Finest has also offered coupons on its Website. Until approximately October 2012, The Finest's Website offered a "WHOLE HOUSE AIR DUCT CLEANING PACKAGE" for \$84.99. The Website was subsequently altered to offer a "RESIDENTIAL HOUSE" (rather than a "Whole House") cleaning package for \$84.99.

34. The Finest's Website has also offered their "WHOLE HOUSE AIR DUCT CLEANING PACKAGE" for \$269.

35. Whether The Finest is advertising a price of \$34.99, \$84.99, or \$269.00, their duct cleaning package covers the exact same services, and The Finest's true price is not revealed until the technician arrives at the consumer's home.

iii. The Finest's \$49.00 and \$59.00 "Living Social" and "Groupon" Coupons

36. The Finest also offered air duct cleaning services for \$49.00 and \$59.00 on Living Social and Groupon, internet sites that post coupons for businesses online. When a consumer purchases a Living Social or Groupon coupon, the consumer pays the amount of the coupon – in this case, \$49.00 for the Living Social offer or \$59.00 for the Groupon offer – and receives a voucher to provide to The Finest. Thus, when consumers purchased The Finest's services through Living Social or Groupon, they paid the offered price before the technician arrived at their home.

37. The Finest's Living Social coupon advertised the following service for \$49.00: "Air duct cleaning, HVAC Evaluation, and Camera Inspection."

38. The Finest's Groupon coupon advertised the following service for \$59.00: "Cleaning of one furnace, one main duct, one return duct, and unlimited supply vents, HVAC evaluation, Camera inspection."

39. As with the \$34.99 and \$84.99 Valpak coupons, Defendants knew at the time of advertisement that their true charges would be far in excess of the \$49.00 and \$59.00 offers The Finest made through Living Social and Groupon.

B. The Finest Has Misrepresented Its Qualifications and the Quality of Its Services

40. Through at least February 18, 2013, The Finest's Website stated that its technicians were "HVAC Certified." Defendants also made this representation on the Groupon Website. None of The Finest's technicians are HVAC certified. Thus, Defendants led consumers to believe that they were more qualified than they actually were to do their advertised services.

41. Through at least February 18, 2013, The Finest's Website stated that The Finest had "14 Powerful Truck Mount Equipped Units for Commercial Calls." The Finest never had 14 trucks equipped for commercial calls.

42. On Groupon's Website, The Finest advertised that it had "been waging war against airborne contaminants for more than 15 years." On Living Social's Website, The Finest advertised that it had been cleaning air ducts for "more than 20 years." Both of these statements are false. According to Defendant Gasparyan, he first entered the air-duct cleaning business approximately seven years ago, in 2006, and Defendant Petrosyan entered the air-duct cleaning business in 2009.

43. The Finest's Website also stated that its technicians used "State-of-the-Art Portable HEPA Systems." HEPA stands for "High-Efficiency Particulate Air" and is a recommended tool for proper air duct cleaning. The Finest has never had state-of-the-art portable HEPA systems.

44. Through at least May 22, 2013, The Finest's Website falsely stated that The Finest was the "largest air duct company in Colorado." On this date, the Website also contained a picture of a large truck carrying containers that would contain materials removed from air ducts. The truck had the name, "D Finest Duct Cleaning" emblazoned on its side. The truck and equipment portrayed on the Website are far more sophisticated and professional than the actual vehicles and equipment utilized by The Finest.

45. The Finest's representations about the quality of its services are contradicted by consumers, who routinely complain of shoddy work by The Finest. This includes leaving large amounts of debris and dust in the duct cleaning system, blowing dust out of the system and into the living area, and failing to properly seal "access panels" that the technicians drill in consumers' ductwork.

46. Along with the above conduct, the Finest seeks to "upsell" consumers by urging them to pay hundreds of dollars for unnecessary services. For example, Defendant Gasparyan instructed The Finest's technicians to convince consumers to purchase a test for "microbes," "bacteria," and "mold." The test kit used by the Finest can be purchased by consumers online for approximately \$25 and does not distinguish between microbes, bacteria, or harmful mold. Nonetheless, The Finest's

technicians use the kit to recommend “remediation” services totaling up to \$1,700 (after the \$75 “inspection” charge).

47. At the express direction of Defendant Gasparyan, The Finest’s technicians routinely try to convince consumers to pay for a mold tests and mold remediation, even when such services are not necessary. The technicians use tainted test kits and tamper with test kits to make the kits show false positives, and take other steps to mislead consumers into spending large amounts of money on unnecessary “mold remediation.”

48. In violation of C.R.S. § 6-1-105(z), Defendants failed to “obtain all governmental licenses or permits required to perform” their services and sell the products used in their services. Specifically, until the Attorney General inquired about business permits during the course of the Attorney General’s investigation, The Finest did not have the business license necessary to do business in the City of Aurora.

C. Deceptive Trade Practices by America’s Finest and American

49. Prior to starting The Finest, Defendants Gasparyan and Petrosyan did business as America’s Finest.

50. America’s Finest engaged in the same deceptive trade practices described above, including the use of false and misleading “Whole House Air Duct Cleaning” coupons offering prices of \$34.99, \$39.99, and \$74.95. America’s Finest also used the misrepresentations that America’s Finest had “over 15 years of experience,” that America’s Finest’s technicians were “HVAC Certified,” that America’s Finest had “14 Powerful Truck Mount Equipped Units for Commercial Calls,” and that America’s Finest had “State-of-the-Art Portable HEPA Systems.”

51. On information and belief, American engaged in all of the deceptive trade practices described in this complaint with regard to The Finest and America’s Finest.

FIRST CLAIM FOR RELIEF

(Makes false or misleading statements of fact concerning the price of goods, services, or property or the reasons for, existence of, or amounts of price reductions in violation of C.R.S. § 6-1-105(l))

52. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 51 of this Complaint.

53. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants have knowingly made false or misleading statements of fact concerning the price of their goods and services and the existence of and amounts of price reductions.

54. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

SECOND CLAIM FOR RELIEF

(Employs "bait and switch" advertising, which is advertising accompanied by an effort to sell goods, services, or property other than those advertised or on terms other than those advertised and which is also accompanied by one or more [specified practices] in violation of C.R.S. § 6-1-105(n))

55. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 54 of this Complaint.

56. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants have knowingly made advertisements accompanied by an effort to sell services other than those advertised and on terms other than those advertised, which conduct was accompanied by:

- Disparagement in any respect of the advertised services or the terms of sale (C.R.S. § 6-1-105(n)(II))
- Showing or demonstrating defective services which are unusable or impractical for the purposes set forth in the advertisement ((C.R.S. § 6-1-105(n)(V))
- In the case of the Groupon and Living Social coupons, accepting a deposit for their services and subsequently switching the purchase order to higher-priced services ((C.R.S. § 6-1-105(n)(VI))

57. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

THIRD CLAIM FOR RELIEF

(Advertises goods, services, or property with intent not to sell them as advertised in violation of C.R.S. § 6-1-105(i))

58. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 57 of this Complaint.

59. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants advertised their services with intent not to sell them as advertised.

60. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

FOURTH CLAIM FOR RELIEF

(Fails to disclose material information concerning goods, services, or property which information was known at the time of an advertisement or sale if such failure to disclose such information was intended to induce the consumer to enter into a transaction in violation of C.R.S. § 6-1-105(u))

61. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 60 of this Complaint.

62. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants have failed to disclose material information concerning goods, services, or property at the time of sale. Such failures to disclose material information were intended by Defendants to induce consumers to enter into a transaction with Defendants.

63. After stating and implying, through coupons, internet advertisements, and other media, that they would clean consumers' air duct systems for a specified price, Defendants failed to disclose on their advertisements and coupons that consumers would incur substantial additional charges.

64. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

FIFTH CLAIM FOR RELIEF

(Knowingly makes a false representation as to the source, sponsorship, approval, or certification of goods, services, or property in violation of C.R.S. § 6-1-105(b))

65. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 64 of this Complaint.

66. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants knowingly made false representation as to the HVAC certification of their technicians.

67. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

SIXTH CLAIM FOR RELIEF

(Represents that goods, food, services, or property are of a particular standard, quality, or grade, or that goods are of a particular style or model, if he knows or should know that they are of another in violation of C.R.S. § 6-1-105(g))

68. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 67 of this Complaint.

69. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants have represented that their services and goods were of a particular standard, quality or grade, and Defendants knew or should have known that their services and goods were of another.

70. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

SEVENTH CLAIM FOR RELIEF

(Refuses or fails to obtain all governmental licenses or permits required to perform the services or to sell the goods, food, services, or property as agreed to or contracted for with a consumer in violation of C.R.S. §6-1-105(z))

71. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – 70 of this Complaint.

72. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants have failed to obtain the necessary Aurora City business license to sell goods and services in Aurora.

73. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for judgment against Defendants and the following relief:

A. An order declaring Defendants' above-described conduct to be in violation of the CCPA, C.R.S. § 6-1-105 (1)(l), (n), (i), (u), (b), (g) and (z).

B. An order permanently enjoining Defendants, their officers, directors, successors, assigns, agents, employees, and anyone in active concert or participation

with Defendants with notice of such injunctive orders, from engaging in any deceptive trade practices as defined in and proscribed by the CCPA and as set forth in this Complaint.

C. Additional appropriate orders necessary to prevent Defendants' continued or future deceptive trade practices.

D. A judgment in an amount to be determined at trial for restitution, disgorgement, or other equitable relief pursuant to § 6-1-110(1), C.R.S. (2012).

E. An order requiring Defendants to forfeit and pay to the General Fund of the State of Colorado, civil penalties in an amount not to exceed \$2,000 per violation pursuant to § 6-1-112(1), C.R.S. (2012), or \$10,000 per violation pursuant to § 6-1-112(3), C.R.S. (2012).

F. An order requiring Defendants to pay the costs and expenses of this action incurred by the Attorney General, including, but not limited to, Plaintiff's attorney fees, pursuant to § 6-1-113(4), C.R.S. (2012).

G. Any such further orders as the Court may deem just and proper to effectuate the purposes of the CCPA.

Dated this 10th day of June, 2013.

JOHN W. SUTHERS
Attorney General

/s/ *Mark T. Bailey*
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