DISTRICT COURT, DENVER CITY AND COUNTY, COLORADO 1437 Bannock Street Denver, Colorado 80202	EFILED Document CO Denver County District Court 2nd JD Filing Date: Mar 1 2010 3:38PM MST Filing ID: 29810511 Review Clerk: Ty Khiem
STATE OF COLORADO, ex rel. JOHN W. SUTHERS, ATTORNEY GENERAL, Plaintiff, v. LEGAL AID d/b/a LEGAL AID US, a Colorado Non-Profit Corporation, NATIONAL DOCUMENT PREPARATION SERVICES, a Colorado For-Profit Corporation, LEGAL AID, LLC, a Nevada For-Profit Corporation, and DANIEL R. KETELSEN, individually, Defendants.	▲ **COURT USE ONLY** ▲
	Case No.: 09CV1372 Div. 2

ORDER OF JUDGMENT AND PERMANENT INJUNCTION

This Court, having reviewed the entire record in this matter, the pleadings and motions, including Plaintiff's *Motion for Default Judgment Against Defendant Daniel R. Ketelsen*, and the supporting affidavits, and being fully advised in the premises,

FINDS and CONCLUDES that an Order of Default Judgment and Permanent Injunction should be entered for Plaintiff the State of Colorado ex rel. John W. Suthers, Attorney General, against Defendants Legal Aid d/b/a Legal Aid US, a Colorado Non-Profit Corporation ("Legal Aid"), National Document Preparation Services, Inc., a Colorado for-profit Corporation ("NDPS"), Legal Aid, LLC, a Nevada Corporation ("Legal Aid, LLC") and Daniel R. Ketelsen for the following reasons:

1. This Court has subject matter jurisdiction in the matter presented herein by virtue of § 6-1-110(1), C.R.S. (2009). The Court has personal jurisdiction over Legal Aid, NDPS, Legal Aid, LLC and Ketelsen, who were personally served process in this matter pursuant to C.R.C.P. Rule 4(e).

2. The violations were committed, in part, in the City and County of Denver, Colorado.

Therefore, venue has been considered and is proper in the County of Denver, Colorado, pursuant to § 6-1-103, C.R.S., and Colo. R. Civ. P. 98 (2009).

3. Pursuant to Rule 121 § 1-14, Defendants Legal Aid, NDPS, Legal Aid, LLC and Ketelsen are not minors, incapacitated persons, officers or agencies of the state, nor in the military.

4. Plaintiff served process, pursuant to C.R.C.P. Rule 4(e), on all of the Defendants on February 9, 2009. Defendant Ketelsen filed an Answer on April 1, 2009. The Court entered default against the corporate entities Legal Aid, NDPS, and Legal Aid, LLC on June 1, 2009.

5. After Defendant Ketelsen failed for many months to serve his mandatory initial disclosures, respond to Plaintiff's written discovery, and answer questions regarding Co-Defendant Legal Aid, LLC during his deposition in November 2009, Plaintiff filed on December 17, 2009 a *Motion to Compel Defendant Daniel Ketelsen's Production of Initial Disclosures and Responses to Discovery*. On January 12, 2010, this Court granted Plaintiff's Motion and issued an Order Compelling Initial Disclosures and Discovery. Ketelsen failed to appear at the February 12, 2010 Trial Management Conference or otherwise participate in the Trial Management Order. Ketelsen has made no attempt to comply with the January 12, 2010 Order. Plaintiff certified to this Court during the Trial Management Conference that counsel made numerous attempts to contact Defendant Ketelsen to notify him of the foregoing.

6. Plaintiff filed a Motion for Entry of Default Against Defendant Ketelsen on February 5, 2010. On February 12, 2010, this Court entered default pursuant to C.R.C.P. Rule 55(a), after striking Ketelsen's Answer pleading pursuant to C.R.C.P. Rule 37(b)(2)(C). This Court also vacated the March 8-11, 2010 trial. This Court's order to enter default and final default judgment against Defendant Ketelsen is justified by the following:

a. Ketelsen's failure to appear at the February 12, 2010 Trial Management Conference and participate in the Trial Management Order.

b. Ketelsen's utter failure to comply with discovery responsibilities.

c. Ketelsen's violation of the January 12, 2010 Order Compelling Initial Disclosures and Discovery.

A. Permanent Injunction

7. This Court is expressly authorized to issue an injunction to enjoin ongoing violations of the CCPA by § 6-1-110(1), C.R.S (2009):

> (1) Whenever the attorney general or a district attorney has cause to believe that a person has engaged in or is engaging in any deceptive trade practice listed in section 6-1-105 or part 7 of this article, the attorney general or district attorney may apply for and obtain, in an action in the appropriate district court of

this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedure, prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof. The court may make such orders or judgments as may be necessary to prevent the use or employment by such person of any such deceptive trade practice or which may be necessary to completely compensate or restore to the original position of any person injured by means of any such practice or to prevent any unjust enrichment by any person through the use or employment of any deceptive trade practice.

§ 6-1-110(1), C.R.S.

8. Plaintiff, by means of its Complaint, has shown to this Court probable cause that:

a. Defendants have knowingly and intentionally violated the Colorado Consumer Protection Act, Colo. Rev. Stat. §§ 6-1-101 through 115 (2009) ("CCPA") in their operation of the businesses. Legal Aid, NDPS and Legal Aid, LLC purport to provide legal document preparation and other legal services to the public. Despite this claim, Ketelsen is not a licensed attorney and the Defendants did not employ any licensed attorneys to supervise intake specialists or review prepared legal documents.

b. Defendants have made false representations as to the approval and certification of legal services advertised and sold to consumers. Defendants have made false representations as to the approval and certification by a licensed attorney of the legal advice and legal documents advertised and sold to consumers.

c. Defendants have made false representations as to their sponsorship, approval, status, and affiliation by using the term "legal aid" in order to mislead consumers into believing they are contacting a free or subsidized legal aid with attorneys when in reality Defendants are not a free or subsidized legal aid with attorneys.

d. Defendants misled consumers across the United States to believe they are dealing with a local business by utilizing local phone numbers when in reality Defendants are located only in Colorado

e. Defendants misled consumers about their products by failing to disclose material contractual terms including the fact that a large portion of the upfront fee consumers must pay is nonrefundable, that an attorney will not be representing them in this matter, and, that the forms prepared will not be reviewed by an attorney. Defendants also misled consumers by

refusing or failing to obtain or require their employees to obtain licensure in order to engage in the practice of law.

9. Plaintiff has shown and satisfied the necessary factors to obtain a permanent injunction: success on the merits; a danger of real, immediate, and irreparable injury which may be prevented by injunctive relief; lack of a plain, speedy, and adequate remedy at law; no disservice to the public interest; and balance of equities in favor of the injunction. *City of Golden v. Simpson*, 83 P.3d 87, 96 (Colo. 2004), *citing*, *Rathke v. MacFarlane*, 648 P.2d 648, 653-54 (Colo.1982); *See*, *Baseline Farms Two, LLP v. Hennings*, 26 P.3d 1209, 1212 (Colo. App. 2001), *citing*, *Lloyd A. Fry Roofing Co. v. State Department of Air Pollution*, 191 Colo. 463, 553 P.2d 200 (1976) (supporting the proposition that when the Colorado Attorney General seeks an injunction to enforce state laws affecting the public interest, the Attorney General is not required to plead or prove immediate or irreparable injury).

10. Plaintiff has no adequate remedy at law and the remedy of a permanent injunction is appropriate in the circumstances of this case.

11. This Court further finds Legal Aid, NDPS, Legal Aid, LLC and Ketelsen will suffer no undue hardship by the entry of a permanent injunction since Defendants have no right to continue to engage in unlawful and deceptive trade practices in the State of Colorado, or to provide legal services without a license.

Thus, this Court orders as follows:

12. Defendants, and their officers, directors, agents, employees, and anyone in active concert or participation with Defendants who receive actual notice of this Court's Order, are permanently enjoined from:

(a) Soliciting, charging for a fee, providing, and aiding in the sale of any legal services whatsoever, including the selection, preparation and completion of legal documents for consumers. The term "legal documents" as used herein shall include, but is not limited to, any and all legal forms available on state court web sites and non-governmental web sites. The term "soliciting" as used herein shall include, but is not limited to, any and all web sites and phone directories.

(b) Using the terms "legal," legal aid," and "law" in any business name.

(c) Engaging in any deceptive trade practice as defined in and proscribed by the CCPA and as set forth in this Order.

B. Restitution and Civil Penalties

13. The CCPA's broad legislative purpose is to "provide prompt, economical, and readily available remedies against consumer fraud," *Western Food Plan, Inc. v. District Court in and for the City and County of Denver*, 598 P.2d 1038, 1041 (Colo. 1979). Accordingly, the CCPA provides that this Court may make such judgments as may be

necessary to "completely compensate or restore to the original position of any person injured by means" of a deceptive trade practice. § 6-1-110(1), C.R.S.

14. This Court finds that the Affidavit by Investigator Rebecca Wild submitted on March 1, 2010 adequately establishes the amount of restitution for which judgment should be entered. Investigator Wild reviewed Defendants' bank accounts, MoneyGram account and merchant accounts that reflect money received from consumer victims, and found that the amount of consumer money wrongly received by Defendants in the course of their business operating Legal Aid totaled $238,406.67. Investigator Wild's report further shows that of the total amount received by Defendants, Defendant Ketelsen took upwards of $203,435.89 for his personal use.

15. The CCPA further provides for an award of civil penalties:

> **6-1-112 Civil penalties.** (1) Any person who violates or causes another to violate any provision of this article shall forfeit and pay to the general fund of this state a civil penalty of not more than two thousand dollars for each such violation. For purposes of this subsection (1), a violation of any provision shall constitute a separate violation with respect to each consumer or transaction involved; except that the maximum civil penalty shall not exceed one hundred thousand dollars for any related series of violations.

16. In determining the amount of a civil penalty award, this Court considers the following concepts: (a) The good or bad faith of the defendant; (b) the injury to the public; (c) the defendant's ability to pay; and (d) the desire to eliminate the benefits derived by violations of the Colorado Consumer Protection Act. *State v. May Dept. Stores Co.*, 849 P.2d 802 (Colo. App. 1992).

17. Based on the record, the Court finds that Defendants' violations of the CCPA were deliberate, knowing and done in bad faith. Ketelsen, Legal Aid, NDPS, and Legal Aid, LLC wrongly misled consumers into believing they were dealing with a local, free, government-sanctioned legal service. As alleged in Plaintiff's Complaint, Ketelsen collected fees for legal services including the preparation of documents that consumers were misled to believe were approved and certified by attorneys, when in reality Defendants did not employ any licensed attorneys to supervise intake specialists or review prepared legal documents. Defendants' business was designed to catch unwary, vulnerable and desperate consumers who needed real legal help. Defendants received consumer complaints and thus knew their use of "legal aid" in their business name and their use of local phone numbers misled consumers. Further, Defendant Ketelsen worked for a Colorado company called Legal Aid National Services, Inc. d/b/a The LANS Corp. prior to commencing operations of Legal Aid in 2007. Ketelsen used LANS' business template in his operation of Legal Aid. The State sued and obtained a default judgment against LANS in Denver District Court in 2008 for the same deceptive behavior committed by Ketelsen (*State ex. rel. Suthers v. Legal Aid National Services, Inc. d/b/a The LANS Corp., et al.*; Case number 08CV666). Plaintiff provided a copy of the State's LANS

Complaint and final judgment to Defendant Ketelsen in June 2008, yet he continued operations of his companies.

18. The Court finds that, based upon the Affidavit of Investigator Wild submitted with Plaintiff's Motion for Default, Defendants collected fees from more than 500 Colorado consumers.

19. This Court orders $100,000 in civil penalties against Defendants based on a penalty of $2,000.00 per consumer who transacted with Defendants for the maximum penalty of $100,000. This Court further orders that Defendants pay $238,406.67 in consumer restitution for a total damages award of **$338,406.67**.

20. Legal Aid, NDPS, Legal Aid, LLC and Ketelsen shall be jointly and severally liable for the damages set forth in paragraph 19.

21. This Court therefore ENTERS such final judgment and permanent injunction against Defendants Legal Aid d/b/a Legal Aid US, a Colorado Non-Profit Corporation, National Document Preparation Services, Inc., a Colorado for-profit Corporation, Legal Aid, LLC, a Nevada Corporation and Daniel R. Ketelsen.

Dated this 3rd day of March, 2010.

BY THE COURT:

Herbert L. Stern III

District Court Judge