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7 Attorneys for Plaintiff

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

9 **IN AND FOR THE COUNTY OF MARICOPA**

10 STATE OF ARIZONA, *ex rel.* THOMAS C.  
HORNE, Attorney General,

11 Plaintiff,

12 vs.

13 GARO ENTERPRISES, INC. an Arizona  
14 Corporation, D/B/A TRANSPLANT PLUS  
TRANSMISSIONS; GARY LUTHER and  
15 SUZANNE LUTHER, husband and wife; and  
ROBERT BRADY and MICHELLE BRADY,  
16 husband and wife,,

17 Defendant(s).

Case No.: CV2011-012492

COMPLAINT

**COPY**

MAY 31 2011



MICHAEL K. JEANES, CLERK  
K. CROCKETT  
DEPUTY CLERK

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19 Plaintiff, State of Arizona, *ex rel.* Thomas C. Horne, Attorney General, alleges as  
20 follows:

21 **I. JURISDICTION AND VENUE**

22 1. This action is brought pursuant to the Arizona Consumer Fraud Act,  
23 A.R.S. § 44-1521 *et seq.*, to obtain injunctive relief, civil penalties, attorneys' fees and costs,  
24 investigative expenses and other relief to prevent the unlawful acts and practices alleged in this  
25 Complaint and to remedy the consequences of such practices.

26 2. Venue is proper in Maricopa County, Arizona.

1           3.       The Superior Court has jurisdiction to enter appropriate orders both prior to and  
2 following a determination of liability pursuant to A.R.S. § 44-1528.

3 **II. PARTIES**

4           4.       Plaintiff is the State of Arizona, *ex rel.* Thomas C. Horne (“the State”), who is  
5 authorized to bring this action under the Arizona Consumer Fraud Act, A.R.S. § 44-1521 *et seq.*

6           5.       Defendant, Garo Enterprises, Inc., is an Arizona corporation engaged in the  
7 business of selling and installing remanufactured transmissions, doing business under the name  
8 Transplant Plus Transmissions, at 1750 E. Elliot Road, Tempe, Arizona.

9           6.       Defendant Gary Luther is the President of Defendant, Garo Enterprises, Inc.

10          7.       Defendant Suzanne Luther is and was, at all relevant times, the wife of Defendant  
11 Gary Luther. Defendant Gary Luther acted on behalf of his marital community with respect to  
12 the allegations contained in this Complaint.

13          8.       Defendant Robert Brady is the Secretary and Director of Defendant, Garo  
14 Enterprises, Inc.

15          9.       Defendant Michelle Brady is and was, at all relevant times, the wife of Defendant  
16 Robert Brady. Defendant Robert Brady acted on behalf of his marital community with respect  
17 to the allegations contained in this Complaint.

18          10.      Defendants Michelle Brady and Suzanne Luther are named herein solely because  
19 of their interests in the marital communities of Defendants Robert Brady and Defendants Gary  
20 Luther.

21 **III. GENERAL ALLEGATIONS**

22          11.      Defendants advertised, sold and installed remanufactured transmissions and  
23 related goods and services within the United States.

24          12.      The Arizona Attorney General alleges that Defendants committed the following  
25 deceptive acts and practices:

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1 a. Defendants informed customers that the transmissions they sought were in stock,  
2 when the transmission was not in stock, resulting in unreasonable delays;

3 b. Defendants required customers to provide hundreds of dollars in core deposits,  
4 ranging from \$250.00 to \$750.00, promising to refund the deposit to customers if their cores  
5 were good, but failed to return the deposits to customers;

6 c. Defendants informed customers that their cores were received late or were  
7 unbuildable and that they would not refund their core deposits, when the cores provided were  
8 not late or unbuildable;

9 d. Defendants shipped transmissions to customers that were not what the customer  
10 ordered and/or were not the correct transmission for customers' vehicles. Defendants refused  
11 to provide refunds, provide replacements or pay for shipping;

12 e. Defendants performed shoddy work that did not remedy the problems for which a  
13 vehicle was brought to Defendants, created dangerous conditions, required further repairs,  
14 damaged vehicles beyond their original condition, and required expensive repair by other  
15 vehicle service shops;

16 f. Defendants charged customers more than the quoted or agreed upon price for  
17 parts and labor and refused to release vehicles to owners without full payment;

18 g. Customers who returned their vehicles for warranty work suffered unreasonable  
19 delays in the completion of the warranty work;

20 h. Defendants evaded phone calls and did not timely respond to customers who were  
21 seeking updates and readiness dates for their vehicles; and

22 i. Defendants' One Year/12,000 mile warranty contained so many conditions,  
23 exceptions and limitations that it was illusory; including a provision mandating a 20%  
24 restocking fee and no refunds, providing only for merchandise credit, and allowing for  
25 repossession of a customers' vehicle if payment was not made or was reversed.

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1 **IV. VIOLATIONS OF THE CONSUMER FRAUD ACT**

2 13. The State realleges and incorporates by reference the allegations of Paragraphs 1  
3 to 12 of this Complaint.

4 14. As alleged above, in the conduct of its business, the sale and installation of  
5 remanufactured transmissions and related goods and services, Defendants used deception,  
6 deceptive acts or practices, fraud, false pretense, false promise, misrepresentation or  
7 concealment, and suppression or omission of material facts with intent that others rely upon  
8 such concealment, suppression or omission, in connection with the sale and advertisement or  
9 merchandise, in violation of the Arizona Consumer Fraud Act, A.R.S. § 44-1521 *et seq.*

10 **V. RELIEF REQUESTED**

11 WHEREFORE, the State respectfully requests that the Court:

12 1. Prohibit Defendants from violating the Consumer Fraud Act, A.R.S. § 44-1521 *et*  
13 *seq.*

14 2. Prohibit Defendants from engaging in the course of conduct alleged herein as a  
15 violation of A.R.S. § 44-1522(A).

16 3. Order Defendants to make restitution to Customers.

17 4. Order Defendants to pay the State of Arizona \$10,000.00 per each willful  
18 violation of the Consumer Fraud Act pursuant to A.R.S. § 44-1531.

19 5. Order Defendants to pay the costs of investigation and reasonable attorneys' fees  
20 pursuant to A.R.S. § 44-1534.

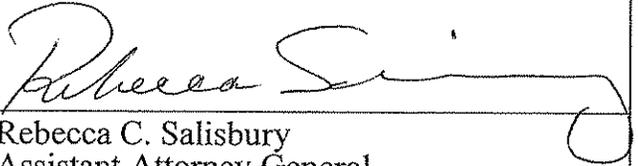
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1 6. Order other and further relief as the Court may deem just and proper.

2 RESPECTFULLY SUBMITTED this 31<sup>st</sup> day of May, 2011.

3 Thomas C. Horne  
4 Attorney General

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7 Rebecca C. Salisbury  
8 Assistant Attorney General  
9 Attorneys for Plaintiff

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