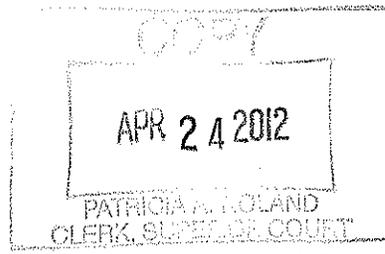


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11 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
12
13 **IN AND FOR THE COUNTY OF PIMA**

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

16 Plaintiff

17 vs.

18 American Residential Services, L.L.C., a
19 Delaware limited liability company, doing
20 business in Arizona as American
21 Residential Services L.L.C.; American
22 Residential Services; Goettl Air
23 Conditioning; ARS; ARS Rescue Rooter;
24 Russett Services/ARS Rescue Rooter;
25 and American Residential Services
26 Management Corp.,

27 Defendants.

No. C20116630

ORDER RE: CONSENT JUDGMENT

Assigned to the Honorable Kenneth Lee

25 The parties, by and through undersigned counsel, have filed a Joint Motion to
26 Enter Consent Judgment, a copy of which is filed contemporaneously with this Order.
27 Based on the above-listed parties' Joint Motion to Enter Consent Judgment and good
28 cause appearing,

1 Rooter; Russett Services/ARS Rescue Rooter; and American Residential Services
2 Management Corp. and to its future principals, officers and directors, assigns and
3 successors, managerial or supervisory employees, and to any other employee or
4 agent having responsibilities with respect to the subject matter of this Order.

5 **DEFINITIONS**

6 2. For purposes of this Consent Judgment, the following definitions shall
7 apply:

8 a. Advertisement shall have the same meaning as that term is
9 defined in A.R.S. § 44-1521(1), as it is currently written or as
10 amended in the future.

11 b. Clear and Prominent shall mean, when referring to a statement,
12 disclosure or disclaimer, that such statement, disclosure or
13 disclaimer shall be in such size, color, contrast, location, duration,
14 and audibility that it is noticeable, readable, and understandable to
15 the least sophisticated consumer.

16 c. Effective Date shall mean the date the Court enters the Consent
17 Judgment.

18 d. Eligible Consumers shall mean those consumers who, in the sole
19 discretion of the Attorney General, are entitled to distribution and
20 consumer satisfaction.

21 e. HVAC shall mean Heating, Ventilation and Air Conditioning.

22 **INJUNCTION**

23 3. ARS shall comply with A.R.S. § 44-1521, *et seq.*, as it is currently written
24 or as amended in the future.

25 4. ARS shall retain for no less than three years from the date of execution
26 any documents that are required to be signed pursuant to this Consent Judgment and
27 all releases consumers sign when entering an agreement with ARS regarding
28

1 compensation and/or repair. From time to time, the Attorney General may require
2 ARS to provide originals or copies of same.

3 **THREE DAY RIGHT TO CANCEL**

4 5. ARS shall comply with the Federal Trade Commission Rule Concerning
5 Cooling-Off Period for Sales Made at Homes or at Certain Other Locations, 16 CFR
6 Part 429 *et seq.* (the "Rule").

7 6. ARS shall train its salespeople, technicians, and call center employees
8 on the Rule, and shall maintain a written acknowledgment from those who have
9 received the training.

10 **CONTRACTS**

11 7. In all circumstances in which ARS visits a consumer's home for a service
12 or sales call, and prior to any sale, ARS shall give the consumer a written contract of
13 the equipment and services being sold and have the consumer sign the contract
14 before commencing work.

15 8. Within 30 days of the Effective Date, ARS shall ensure that its contracts
16 clearly and prominently include, at a minimum, the following:

- 17 a. The aggregate price of the equipment and installation. With
18 regard to a new HVAC and/or plumbing system, ARS will include
19 the make, model and model number of the equipment. If,
20 however, a consumer so requests, ARS shall set out the price
21 charged to that consumer for new HVAC or plumbing equipment.
- 22 b. The price of the Gold Key or other maintenance program.
- 23 c. The price of any warranty which is in addition to the
24 manufacturer's warranty.
- 25 d. The tax.
- 26 e. Any other amounts ARS charges the consumer.
- 27 f. An itemization of any discounts, credits, rebates, trade-ins or
28 buybacks that have been applied.

1 9. At the time consumers sign the contracts, ARS shall provide the
2 following:

- 3 a. All applicable ARS guarantees.
- 4 b. A copy of any warranty ARS proposes to sell the consumer which
5 is in addition to the manufacturer's warranty that comes with the
6 system.
- 7 c. A copy of the manufacturer's warranty, which shall be provided by
8 the time of installation if it is not available when the consumers
9 sign the contracts.
- 10 d. A complete copy of the Gold Key or any other maintenance
11 program, including its limitations.

12 **GOLD KEY, MAINTENANCE PROGRAMS, AND HOME VISITS**

13 10. If ARS sells consumers a Gold Key or other type of maintenance
14 program, ARS agrees not to send an HVAC technician or salesperson to any
15 consumer's home on the same day as a plumbing technician or salesperson unless
16 requested by the consumer.

17 11. ARS agrees not to call consumers for Gold Key or maintenance
18 appointments if consumers ask ARS to stop calling or to be put on ARS's Do Not Call
19 List.

20 **SALES**

21 12. ARS shall have a written policy that prohibits the use of financial
22 incentives to motivate ARS employees or independent contractors to engage in
23 improper promotion and/or marketing. The Attorney General may request originals or
24 copies of records reflecting payment to technicians and/or salespeople from time to
25 time.

26 13. In its sales presentations, ARS shall not state or imply that consumers'
27 safety concerns necessitate the immediate replacement of an HVAC or plumbing
28 system unless the claim is true, in the technician's expert opinion.

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Defendants have taken corrective action designed to cause the claimed violation to be cured and to prevent future occurrences.

31. The State acknowledges by its execution hereof that this Consent Judgment constitutes a complete settlement of its allegations against the Defendants and it agrees that it shall not institute any additional civil action against it based on those allegations or the alleged violations of the Arizona Consumer Fraud Act, as described in the State's Complaint through the date of entry of this Consent Judgment.

32. 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 the Defendants.

33. This Consent Judgment is entered as a result of a compromise and a settlement agreement between the parties. Only the parties to this action may seek enforcement of this Consent Judgment. Nothing herein is intended to create a private right of action by other parties.

34. Nothing in this Consent Judgment shall limit the rights of any consumer to pursue a private right of action or assert any available right or remedy against the Defendants.

Dated this 27th day of April, 2012.

KENNETH LEE

JUDGE OF SUPERIOR COURT