

IN THE FIRST JUDICIAL DISTRICT COURT

IN AND FOR THE COUNTY OF LARAMIE, STATE OF WYOMING

STATE OF WYOMING, ex rel.,)
PETER K. MICHAEL, ATTORNEY GENERAL,)
Plaintiff,)

vs.)

DOCKET NO. 190-299)

PINNACLE POWERFUL SOLUTIONS LLC;)
and LINDA PEARSON; and RON YUNG,)
individually and in their capacity as)
principals of Pinnacles Powerful Solutions LLC.)
Defendants.)

FILED

DEC 11 2018

DIANE SANCHEZ
CLERK OF THE DISTRICT COURT

CONSENT JUDGMENT

Plaintiff, the State of Wyoming, has filed this action against Defendants Pinnacle Powerful Solutions LLC, Linda Pearson, and Ron Yung, seeking injunctive relief, civil penalties, consumer redress, and other equitable relief under the Wyoming Consumer Protection Act ("Act"), Wyoming Statutes §§ 40-12-101 through -114.

Plaintiff and Defendants (collectively, "the Parties") have agreed to resolve this action by entry of this Consent Judgment without trial or adjudication of any issue of fact or law or any finding of liability of any kind.

This Court has reviewed the Complaint filed by the State of Wyoming and the Consent Judgment recommended by the Parties. NOW, THEREFORE, upon the consent of the Parties, IT IS HEREBY ORDERED AND DECREED AS FOLLOWS:

I.

PARTIES

1. Plaintiff is the State of Wyoming, acting by and through its Attorney General who is charged with enforcing the Act.

2. Defendant Pinnacle Powerful Solutions, LLC is an active Limited Liability company formed in Nevada. Defendant Pinnacle Powerful Solutions, LLC is also registered as a foreign limited liability company in Nebraska, with a principal office address of: 22 West 56th Street, Kearney, Nebraska 68847, Suite 107, Box 393.

3. Defendants Linda Pearson and Ron Yung are principals of Pinnacle Powerful Solutions, LLC.

II.

JURISDICTION AND VENUE

4. Defendants have been provided notice of all pleadings filed in this action and waive any defects of service of process.

5. Defendants, at all times relevant hereto, engaged in "consumer transactions" in Wyoming, as that term is defined by Wyoming Statutes § 40-12-102(a)(ii).

6. This Court has jurisdiction over the subject matter of this lawsuit and over the Parties and venue is proper in this Court.

7. This Court retains jurisdiction of this Consent Judgment and the Parties for the purposes of enforcing and modifying this Consent Judgment and granting such additional relief as may be necessary and appropriate.

III.

INJUNCTIVE RELIEF

8. Effective immediately, Defendants shall adhere to the following requirements:
- a. Defendants shall not engage in any "consumer transaction in Wyoming" in which Defendants directly or indirectly engage in "sales of home efficiency merchandise;"
 - b. Defendant Linda Pearson shall not be a member, manager, officer, director, owner, partner, principal, agent, employee, independent contractor, or creditor of any entity formed under Wyoming law or having or purporting to have an office or address in Wyoming, which engages in "sales of home efficiency merchandise;" and
 - c. Defendant Ron Yung shall not be a member, manager, officer, director, owner, partner, principal, agent, employee, independent contractor, or creditor of any entity formed under Wyoming law or having or purporting to have an office or address in Wyoming, which engages in "sales of home efficiency merchandise."

9. For the purpose of these prohibitions, “consumer transaction in Wyoming” shall be construed to include the definition contained in Wyoming Statute § 40-12-102(a)(ii), and shall be limited to those transactions which are between either:

- a. Any of Defendants and a consumer residing in Wyoming at the time of the transaction; or
- b. Any consumer, regardless of residency, and any of Defendants independently or acting for, on behalf of, or in connection with any entity operating in Wyoming, incorporated in Wyoming, registered in Wyoming, located in Wyoming, or otherwise holding itself out to be located in Wyoming.

10. For the purposes of these prohibitions, the term “sales of home efficiency merchandise” shall be broadly construed to include, without limitation, the following: advertising, marketing, promoting, offering for sale, arranging for sale, or selling any good or service that is represented, either directly or by implication, to increase a residential property’s efficiency or to decrease a residential property’s utility bills, including but not limited to the following types of goods: solar fans, radiant heat barriers, and attic blankets.

IV.

RESTORATION OF MONEY TO AFFECTED CONSUMERS

11. Within ninety days from the entry of this Consent Judgment, Defendants shall provide refunds totaling \$84,195.52 to consumers. Defendants shall issue refunds according to a document titled “Consumer Refund List,” which the parties will separately agree to prior to filing this Consent Judgment, and which shall identify each consumer household and the refund amount to which they are entitled.

12. Refunds shall be made by cashier’s check and sent by USPS Registered Mail to each consumer household identified in the Consumer Refund List.

13. Each payment made to each consumer shall include a notice from Defendants that: (1) indicates that the refund is made by Defendants; (2) identifies the amount being refunded; (3) states the date that the payment was issued by Defendants; and (4) states that the refund is made pursuant to this Consent Judgment. Defendants shall use the form attached as Exhibit A to this Judgment in order to provide this notice.

14. Within one hundred and five days of entry of this Consent Judgment, Defendants shall certify in writing to the Attorney General that all consumer refunds have been issued, according to the Consumer Refund List. To do so, Defendants shall complete, sign, and have notarized, a document titled "Consumer Refund Certification," which is identical to the Consumer Refund List, but which includes the dates on which Defendants mailed each refund. Defendants shall send this Certification to:

Office of the Wyoming Attorney General
ATTN: Emily Soli
2320 Capitol Ave.
Cheyenne, Wyoming 82002

V.

CIVIL PENALTIES

15. Defendants shall be jointly and severally liable for and shall pay civil penalties in the amount sixty thousand dollars (\$60,000) to the State of Wyoming under Wyoming Statutes §§ 40-12-111(b) and 40-12-113(c).

16. These civil penalties shall be suspended, subject to Paragraph 17 below.

17. The suspension of these civil penalties will be lifted if, upon motion by the Attorney General, this Court finds that Defendants failed to adhere to any of the requirements of Sections III or IV of the Consent Judgment.

18. If the suspension of civil penalties is lifted pursuant to Paragraph 17 above, the penalties become immediately due to the State of Wyoming.

VI.

GENERAL PROVISIONS

19. This Consent Judgment shall be in effect for 5 years (1,825 days).

20. Nothing in this Consent Judgment shall be construed to create, waive, or limit any private right of action or be deemed as approval of Defendants' business practices by the Attorney General. Defendants shall make no representation or claim to the contrary.

21. Nothing in this Consent Judgment shall be construed as relieving Defendants of the obligation to comply with all federal, state or local laws, regulations, ordinances or rules, nor shall any provisions of the Consent Judgment be deemed to be permission to engage in any act or practice prohibited by law, regulation, or rule.

22. Failure by any party to insist upon the strict performance by another party of the provisions of this Consent Judgment shall not be deemed a waiver of the provisions of the Consent Judgment. Notwithstanding such failure, each party shall have the right to insist upon specific performance of any and all provisions of this Consent Judgment.

23. The State acknowledges by its execution hereof that this Consent Judgment constitutes a settlement of its consumer protection allegations against Defendants and it agrees it shall not institute any additional civil action against Defendants based upon the alleged violations of the Act, as described in the State's Complaint. Notwithstanding the foregoing, the State may institute an action or proceeding to enforce the terms and provisions of this Consent Judgment or take action based on future conduct by Defendants.

24. If any clause, paragraph, or section of this Consent Judgment shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of the Consent Judgment and this Consent Judgment shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein.

25. The Defendants shall not participate, directly or indirectly, in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part which are prohibited by this Consent Judgment or for any other purpose which would otherwise circumvent any part of the Consent Judgment or the spirit of purposes of this Consent Judgment.

26. Each of the Parties to this Consent Judgment warrants and represents that he, she, or it freely and voluntarily enters into this Consent Judgment without any degree of duress or compulsion.

27. This Consent Judgment is subject to modification only by the written agreement of the Parties and approval of this Court.

28. This Consent Judgment may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect as, an original signature.

29. Defendants expressly waive any defect associated with service of Plaintiff's Complaint and this Consent Judgment and do not require issuance or service of summonses.


30. Nothing in this Consent Judgment shall be construed to waive any claim of Sovereign Immunity.

31. Each party shall pay his or its own attorney's fees and costs.

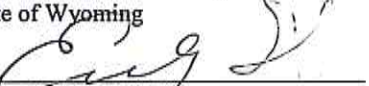
DATED THIS 5 day of Dec 2018.


DISTRICT COURT JUDGE

JOINTLY APPROVED:
FOR PLAINTIFF STATE OF WYOMING

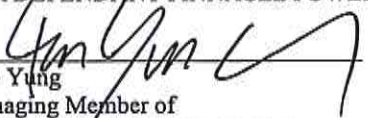
By: 
Peter K. Michael
Attorney General
State of Wyoming

12/2/18
Date

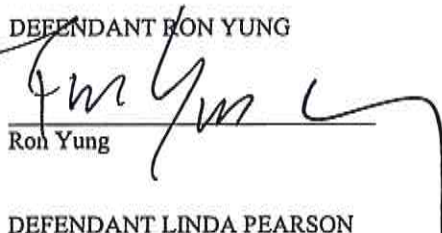
By: 
Emily Soli (#7-5801)
Assistant Attorney General
State of Wyoming
Kendrick Building
2320 Capitol Ave.
Cheyenne, WY 82002
(307) 777-8904
*Counsel of Record

11/30/18
Date

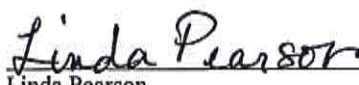

FOR DEFENDANT PINNACLE POWERFUL SOLUTIONS, LLC

By: 
Ron Yung
Managing Member of
Pinnacle Powerful Solutions, LLC

11-29-18
Date

DEFENDANT RON YUNG

Ron Yung

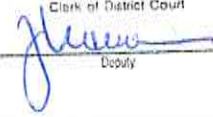
11-29-18
Date

DEFENDANT LINDA PEARSON

Linda Pearson

11-29-18
Date

STATE OF WYOMING COUNTY OF LARAMIE, SS CHEYENNE
I, Diane Sanchez, Clerk of the District Court in and for the County of Laramie, Wyoming, do hereby certify that the within and foregoing is a full true and correct copy of the original thereof as the same appears on file or of record in my office and that the same is in full force and effect as of this date.

Witness my hand and seal of said court this 11 day of Dec 2018
DIANE SANCHEZ
Clerk of District Court

By: 
Doubly



Office of the Attorney General

Governor
Matthew H. Mead

Attorney General
Peter K. Michael

Human Services Division
Consumer Protection Unit
Kendrick Building
2320 Capitol Ave.
Cheyenne, Wyoming 82002
307-777-6397 Telephone
307-777-3435 Fax

Chief Deputy Attorney General
John G. Knepper

Division Deputy
Misha Westby

NOTICE OF CONSUMER REFUND PAYMENT MADE PURSUANT TO CONSENT JUDGMENT

Linda Pearson and Ron Yung in their individual capacities and on behalf of Pinnacle Powerful Solutions LLC, hereby provide this notice of payment.

Payment issued to: (consumer name) _____

Payment issued by: (Defendants' names) _____

Date payment issued: _____

Amount of payment: _____

This payment is made to the consumer household listed above pursuant to the Consent Judgment issued by the First Judicial District Court for the County of Laramie, State of Wyoming, in *State of Wyoming v. Pinnacle Powerful Solutions LLC, et. al., Docket Number 190-299*.

If you have received this notice and payment but you are not the consumer named above, please send this notice as well as the attached cashier's check to:

Office of the Wyoming Attorney General
ATTN: Consumer Protection Division
2320 Capitol Avenue
Cheyenne, WY 82002
307-777-8962

