

<p>CITY AND COUNTY OF DENVER DISTRICT COURT 1437 Bannock Street Denver, CO 80202</p> <hr/> <p>STATE OF COLORADO, <i>ex rel.</i> PHILIP J. WEISER, ATTORNEY GENERAL</p> <p>Plaintiff,</p> <p>v.</p> <p>MARCIO GARCIA ANDRADE, <i>et al.</i>,</p> <p>Defendants.</p>	<p>▲ COURT USE ONLY ▲</p> <hr/> <p>Case No.: 2023CV032624</p> <p>Div.: 275</p>
<p>CONSENT JUDGMENT AND ORDER FOR JUDICIAL DISSOLUTION</p>	

This matter is before the Court on the Stipulation for Entry of a Final Consent Judgment under C.R.C.P. 58(a) by Plaintiff, State of Colorado, *ex rel.* Philip J. Weiser, Attorney General for the State of Colorado, and Defendant Marcio Garcia Andrade (“Defendant”) (collectively, “the Parties”).

The Court, being fully advised in this matter, finds and concludes:

1. That it has jurisdiction over the Parties and the subject matter of this suit under the grounds alleged in the Complaint by the Attorney General;
2. That venue in Denver County is proper; and
3. That the Parties shall be subject to the following provisions:

I. GENERAL PROVISIONS

1.1 Scope of Final Consent Judgment. The provisions of this Final Consent Judgment are entered pursuant to the Colorado Consumer Protection Act, C.R.S. §§ 6-1-101, *et seq.* (“CCPA”).

1.2 Release of Claims. The Attorney General acknowledges by its execution hereof that this Final Consent Judgment constitutes a complete settlement and release of all claims under the CCPA on behalf of the Attorney General against Defendant, with respect to all claims, causes of action, damages, fines, costs, and penalties which were asserted or could have been asserted under the CCPA in the Complaint, that arose prior to this date and that relate to or are based upon the acts or practices which are the subject of the Complaint filed in this action. The Attorney General agrees that he shall not proceed with or institute any civil action or proceeding under the CCPA against Defendant, including, but not limited to, an action or proceeding seeking restitution, injunctive relief, fines, penalties, attorneys’ fees, or costs, for any conduct or practice prior to the date of entry of this Final Consent Judgment which relates to the subject matter of the Complaint filed in this action.

1.3 Liability. All Parties are entering into this Final Consent Judgment for the purpose of compromising and resolving the disputed claims and to avoid the expense of further litigation. Nothing contained in this Consent Judgment shall be construed or deemed an admission by Defendant of any wrongdoing or any violation

of state or federal law or regulation. Defendant expressly denies any liability or wrongdoing and is entering into this Consent Judgment to avoid further inconvenience and costs of potential litigation.

1.4 Preservation of Law Enforcement Action. Nothing herein precludes the Attorney General from enforcing the provisions of this Final Consent Judgment, or from pursuing any law enforcement action under the CCPA with respect to the acts or practices of Defendant not covered by this Complaint and Final Consent Judgment or any acts or practices of Defendant conducted after the entry of this Final Consent Judgment.

1.5 Compliance with and Application of State Law. Nothing herein relieves Defendant of his duty to comply with applicable laws of the State of Colorado nor constitutes authorization by the Attorney General for Defendant to engage in acts and practices prohibited by such laws. This Final Consent Judgment shall be governed by the laws of the State of Colorado.

1.6 Non-Approval of Conduct. Nothing herein constitutes approval by the Attorney General of Defendant's past or future business practices. Defendant shall not make any representation contrary to this paragraph.

1.7 Third-Party Claims. Nothing herein shall be construed as a waiver of any rights of third parties, including the rights of consumers to seek restitution or other remedies through other actions.

1.8 Use of Settlement as Defense. Nothing herein shall be interpreted to prevent the Attorney General from taking enforcement action to address conduct occurring after the entry of this Final Consent Judgment that the Attorney General believes to be in violation of the law. The fact that such conduct was not expressly prohibited by the terms of this Final Consent Judgment shall not be a defense to any such enforcement action.

1.9 Use of Settlement in Business Activity. Under no circumstances shall this Final Consent Judgment, the name of the Attorney General, or the names of any of the Attorney General's employees or representatives be used by Defendant or any of his employees, representatives, or agents as an endorsement of any conduct, past or present, by Defendant.

1.10 Retention of Jurisdiction. This Court shall retain jurisdiction over this matter for the purpose of enabling any party to this Final Consent Judgment to apply to the Court at any time for any further orders which may be necessary or appropriate for the construction, modification or execution of this Final Consent Judgment, and for the enforcement of compliance herewith and the punishment of violations hereof.

1.11 Contempt. The parties understand and agree that a finding of any violation of any term or provision of this Final Consent Judgment may give rise to all contempt remedies available to the Court, including those provided under C.R.S § 6-1-112(1)(b).

1.12 Execution in Counterparts. This Final Consent Judgment may be executed in counterparts.

1.13 Severability. If any provision(s) of this Final Consent Judgment is held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

1.14 Successors in Interest. The terms and provisions of this Final Consent Judgment may be enforced by the current Colorado Attorney General, and by any of the Attorney General's authorized agents or representatives, as well as by any of the Attorney General's successors in interest, agents, or representatives.

1.15 Amendment. This Final Consent Judgment may be amended solely by written agreement signed by the Attorney General and Defendant.

1.16 Notice. Whenever Defendant provides notice or any other documents to the Colorado Attorney General under this Final Consent Judgment, that requirement shall be satisfied by sending notice to:

Betsy Atkinson
Conor A. Kruger
Assistant Attorney General
Consumer Fraud Unit
Colorado Department of Law
1300 Broadway, 7th Floor
Denver, CO 80203
conor.kruger@coag.gov

Any notice or other documents sent to Defendant by the Colorado Attorney General under this Consent Judgment shall be sent to:

David C. Japha
Evan J. House
Levin Jacobson Japha, P.C.
6000 East Evans
Building 1, Suite 10
Denver, CO 80222
davidjapha@japhalaw.com

1.17 Definitions. Unless otherwise stated herein, all terms herein that are defined in the CCPA shall be given the definition provided by the CCPA.

II. DEFENDANT'S CONDUCT

2.1 The Attorney General alleges that Defendant has violated C.R.S. § 6-1-105(1)(ppp) by including an address in documents filed with the Secretary of State's Office without the consent of the owner or occupant the included address, in violation of C.R.S. § 7-90-314(1)(b).

2.2 The Attorney General alleges that Defendant has violated C.R.S. § 6-1-105(1)(rrr) by fraudulently filing official, public documents that claim a business can be reached at an address where it cannot.

2.3 The articles of organization for the entities filed by Defendant with the Colorado Secretary of State list 2236 E. 109th Dr., Northglenn, Colorado 80233 ("Northglenn Address"), as the address for the entities' principal offices and as the address for their registered agents. The Northglenn Address is a residential property owned by Dr. Jeffrey Levine and currently rented by Mr. Ben Pollack. Neither Dr. Levine nor Mr. Pollack provided consent for Defendant to use the Northglenn Address

as Defendant's entities' principal office address, as the address for their respective registered agents, or for any other purpose, including for registering an LLC or a corporation with the Colorado Secretary of State.

2.4 Defendant is and has been required to continuously maintain a registered agent in Colorado. C.R.S. § 7-90-701(1). To serve as a registered agent in Colorado, an individual must have their primary residence or usual place of business in Colorado. C.R.S. § 7-90-701(1)(a). Defendant is not eligible to be a registered agent in Colorado, nor was he eligible to serve as a registered agent in Colorado at the time the Fraudulent Businesses were filed with the Secretary of State because he did not and does not have his primary residence or usual place of business in Colorado.

2.5 Defendant was unjustly enriched by receiving fee credits from the State by registering businesses at an address where he did not have consent and while using an ineligible registered agent.

2.6 Defendant sold or transferred ownership of several of the entities listed in the State's complaint to third parties (the "Transferred Entities").

III. DENIALS

3.1 Defendant denies the allegations above that he has engaged in violations of the CCPA as alleged by the State.

IV. DISMISSAL

4.1 The Parties have separately filed a Stipulation of Dismissal as to Defendant Rick Steenbock and Defendant Jumpstart Incorporations. These defendants are dismissed from this matter.

V. TRANSFERRED ENTITY NOTICE

5.1 Within sixty (60) days of the Effective Date of this Agreement, Defendant shall notify each Transferred Entity by letter or email that the entity can no longer use the Northglenn Address in the entity's business filings with the Secretary of State, and provide the Secretary of State website address(es) that explain how to modify an entity's registration information.

VI. PERMANENT INJUNCTION

6.1 Effective immediately this Court permanently enjoins Defendant and any other person under his control or direction who receives actual notice of this Order from filing any LLCs in the State of Colorado in a manner that fails to comply with the provisions of C.R.S. § 7-80-101 *et seq.* and § 7-90-101 *et seq.*

VII. JUDICIAL DISSOLUTION

7.1 The Parties agree to judicially dissolve the entities listed on Exhibit A (the “Andrade Entities”) pursuant to the CCPA’s broad remedial and injunctive powers and in accordance with the Judicial Dissolution processes available to the Attorney General in Title 7, C.R.S § 7-1-101 to § 7-137-301.

7.2 Defendant, as the organizer, incorporator manager, and current owner of the entities listed on Exhibit A (again, “the Andrade Entities”) has the legal authority to act on behalf of the Andrade Entities and make legally binding decisions for them.

7.3 The CCPA authorizes the Court to “make such orders or judgments as may be necessary to prevent the use or employment by the person of any such deceptive trade practice or that 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.” C.R.S. § 6-1-110(1). The Parties agree that the dissolution of the Andrade Entities will restore to the State its original position before Defendants’ conduct alleged in this action, as well as prevent unjust enrichment to Defendant Andrade.

7.4 The Parties further agree that the Andrade Entities will be dissolved according to the Judicial Dissolution processes set forth in Title 7, C.R.S § 7-1-101 to

§ 7-137-301. Defendants specifically consent to the Judicial Dissolution processes as described in C.R.S. §§ 7-80-810 – 7-80-813 and C.R.S. §§ 7-114-301 – 7-114-304.¹

7.5 As such, the Parties agree that the Andrade Entities will be judicially dissolved effective the date of this Order according to C.R.S. § 7-80-813(1) and § 7-114-304(1). The Parties agree and stipulate that, pursuant to C.R.S. § 7-80-813(1) and § 7-114-304(1), one or more grounds for dissolution described in C.R.S. § 7-80-810 and § 7-114-301 exist and dissolution is therefore proper.

7.6 The Parties further agree that Defendant shall wind up and liquidate the entities' business and affairs in accordance with C.R.S. § 7-80-803 and § 7-114-105. *See* C.R.S. § 7-80-813(2) and § 7-114-304(2).

7.7 Additionally, the Parties agree that Defendant shall give notice to claimants in accordance with C.R.S. §§ 7-90-911 & 912. *See* C.R.S. § 7-80-813(2) and § 7-114-304(2).

7.8 The Parties stipulate and agree to waive the right to the hearings referenced in C.R.S. § 7-80-813(1) and § 7-114-304.

7.9 The Parties jointly submit the PROPOSED ORDER AND DECREE OF JUDICIAL DISSOLUTION attached as Exhibit B to be entered by the Court, with

¹ These processes encompass both the dissolution procedures for LLCs, *see* C.R.S. § 7-80-813, and corporations, *see* C.R.S. § 7-114-304. The Andrade Entities consist primarily of LLCs, but do include a subset of corporations. Accordingly, the parties include both dissolution procedures in this Final Consent Judgment.

the Court's approval, and delivered to the Secretary of State to dissolve the Andrade Entities.

7.10 The Parties agree that upon the Court's entry of the PROPOSED ORDER AND DECREE OF JUDICIAL DISSOLUTION, the Clerk of Court for the Denver District Court shall deliver a certified copy of a Decree of Dissolution to the Secretary of State for filing in accordance with C.R.S. §§ 7-90-301 to -313, pursuant to C.R.S. § 7-80-813(1) and § 7-114-304(1).

VIII. MONETARY PROVISIONS

8.1 Defendant will pay a total of \$75,000 to the Attorney General. Defendant will pay \$20,000 in attorney fees, \$20,000 as a penalty, and an additional \$35,000 as disgorgement to the State. Defendant will pay the State in monthly installments of \$4,167² for eighteen (18) months until the total sum of \$75,000 is paid to the Attorney General. The money that Defendant pays shall be held, along with any interest thereon, in trust by the Attorney General to be used in the Attorney General's sole discretion for reimbursement of the Attorney General's actual costs and attorneys' fees, the payment of restitution to consumers, and for future consumer fraud or antitrust enforcement, consumer education, or public welfare purposes.

² Except for the final month which will be \$4,161.00

8.2 Interest shall not accrue on any payments due in paragraph 4.2 of this Consent Judgment and Defendant shall receive no discount nor pay any penalty for paying more than \$25,000 each quarter.

8.3 Defendant shall send any payment by check or wire transfer. Any payment by check shall be made payable to the Colorado Department of Law with a reference to “State v. Andrade et al.” The payment shall be delivered mailed or otherwise delivered to the following address:

Colorado Department of Law
Consumer Fraud Unit
c/o Miriam Burnett
1300 Broadway, 7th Floor
Denver, Colorado 80203

Any payment by wire transfer shall be made payable to the “DEPT OF LAW- Attorney General, 720-508-6000” with a reference to “State v. Andrade et al.” The State shall provide Defendant with additional wire payment instructions upon the execution of this agreement.

IX. REPRESENTATIONS AND WARRANTIES

9.1 Nothing in this Final Consent Judgment shall be construed as relieving Defendant of his obligation to comply with all state and federal laws, regulations, or rules, or granting permission to engage in any acts or practices prohibited by such law, regulation or rule.

9.2 Defendant acknowledges that he has thoroughly reviewed this Final Consent Judgment, that he understands and agrees to its terms, and that he agrees that it shall be entered as an Order of this Court. Defendant has had an opportunity to consult with counsel before entering this Consent Judgment.

9.3 During the Attorney General's investigation, Defendant produced documents and made representations as to the value of his assets. The Attorney General relied on these representations as a material inducement to entering this Consent Judgment.

X. VIOLATION OF THIS CONSENT JUDGMENT

10.1 Any violation of any injunctive terms of this Consent Judgment shall constitute both an event of default under the Consent Judgment and contempt of this Court and subject Defendant to further penalties. Violation of the Court's injunction may also constitute criminal contempt and subject Defendant to incarceration either through a civil or criminal contempt finding.

10.2 Defendant shall fully cooperate with all further investigations relating to these proceedings, including investigations into deceptive trade practices and any investigations into Defendant's assets and financial standing.

10.3 In the event that the State seeks judicial relief to enforce the terms of this consent judgment and is successful in such enforcement, Defendant shall pay the reasonable attorney's fees incurred by the State in connection with the enforcement

action. Defendant shall be liable for any attorney's fees amount ordered by the Court in an enforcement action.

XI. ENFORCEMENT OF FINAL CONSENT JUDGMENT

11.1 In any action brought by the Attorney General to enforce this Final Consent Judgment, Defendant consents to personal and subject matter jurisdiction in Denver District Court. Defendant further consents to domestication of any judgment related to violations of this Consent Judgment in any state court within the United States. This Consent Judgment is governed by the laws of the State of Colorado.

SO ORDERED and SIGNED this _____ day of _____, 2024.

BY THE COURT:

The Honorable Kandace Gerdes
District Court Judge

Agreed to and approved by the parties:


On behalf of the Plaintiffs,
PHILIP J. WEISER, Attorney General

For the Attorney General

/s/ Elizabeth Atkinson
LAUREN M. DICKEY, 45773*
First Assistant Attorney General
ELIZABETH ATKINSON, 42811*
CONOR A. KRUGER, 54111*
Assistant Attorneys General
1300 Broadway, 10th Floor
Denver, Colorado 80203
Attorneys for Plaintiff

(Date) September 4, 2024

On behalf of Defendant,
MARCIO GARCIA ANDRADE



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6000 East Evans Avenue
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Denver, Colorado 80222
Attorneys for Defendant

(Date) September 3, 2024