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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, MERCER COUNTY
DOCKET NO. MER-C- 34 -14

JOHN J. HOFFMAN, Acting Attorney General of the
State of New Jersey, THE NEW JERSEY BOARD
OF PUBLIC UTILITIES, and STEVE C. LEE, Acting
Director of the New Jersey Division of Consumer
Affairs,

Plaintiffs,

v.

KEIL & SONS, INC., d/b/a SYSTRUM ENERGY;
DOMINICK TULLO, individually and in his capacity
as an officer of KEIL & SONS, INC.; ALEX E.
TULLO, individually and in his capacity as an officer
of KEIL & SONS, INC. and JANE AND JOHN
DOES 1-20, individually and as owners, officers,
directors, shareholders, founders, managers, agents,
servants, employees, representatives and/or
independent contractors of KEIL & SONS, INC.,
d/b/a SYSTRUM ENERGY and XYZ
CORPORATIONS 1-20,

Defendants.

Civil Action

**FIRST AMENDED
COMPLAINT**

Plaintiffs John J. Hoffman, Acting Attorney General of the State of New Jersey ("Attorney General"), with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey, the New Jersey Board of Public Utilities, with offices located at 44 South Clinton Avenue, Trenton, New

Jersey 08625 (“BPU” or “Board”), and Steve C. Lee, Acting Director of the New Jersey Division of Consumer Affairs (“Director”), with offices located at 124 Halsey Street, Seventh Floor, Newark, New Jersey, by way of First Amended Complaint state:

PRELIMINARY STATEMENT

1. At all relevant times, Keil & Sons, Inc., d/b/a Systrum Energy (“Systrum”) has been licensed by BPU as a third party supplier of natural gas in the State of New Jersey (“New Jersey” or “State”). At all relevant times, Systrum has been licensed by BPU as a third party supplier of electric power in New Jersey.

2. When choosing their energy suppliers, consumers are understandably cost conscious. Even modest reductions in monthly utility bills can provide valuable financial relief for cash-strapped consumers. It is not surprising therefore, that when an energy supplier promises consumers significant monthly savings, many jump at the opportunity.

3. Systrum made just such promises to consumers. Its advertisements represented that Systrum offers “New Jersey’s Lowest Residential Electric Rates” and promised consumers savings of up to 20% on their monthly gas and electric bills. But instead of realizing the promised monthly savings, consumers saw their bills increase by as much as 300%. Systrum’s advertisements also lured consumers with the false promise of “no contracts.” After increasing consumers’ bills drastically for the first two months of 2014, Systrum abruptly cancelled most, if not all, of their contracts without proper notice and failed to respond to consumer complaints.

4. To date, BPU has received complaints from three hundred sixty-three (363) consumers, while the New Jersey Division of Consumer Affairs (“Division”) has received complaints from fifty-five (55) consumers. The consumers complain of being induced into

switching to Systrum by promises of significant savings only to see their energy costs increase dramatically after making the switch.

5. The conduct of Systrum and Dominick Tullo, its President, (“D. Tullo”) and Alex E. Tullo, its Vice President (“A. Tullo”) (collectively, “Defendants”) constitute multiple violations of the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 (“EDECA”), the Regulations Governing Energy Licensing and Registration, N.J.A.C. 14:4-5.1 et seq. (“Energy Licensing and Registration Regulations”), Regulations Governing Retail Choice Consumer Protection, N.J.A.C. 14:4-7.1 et seq. (“Retail Choice Consumer Protection Regulations”), the Regulations Governing Energy Anti-Slamming, N.J.A.C. 14:4-2.1 et seq. (“Energy Anti-Slamming Regulations”), the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (“CFA”), the Regulations Governing General Advertising, N.J.A.C. 13:45A-9.1 et seq. (“Advertising Regulations”), as well as the Plain Language Act, N.J.S.A. 56:12-1 et seq. (“PLA”). The Attorney General, Director and BPU submit this First Amended Complaint to halt Defendants’ deceptive business practices, to seek adherence to the applicable law, and to prevent consumers from suffering further monetary harm.

PARTIES AND JURISDICTION

6. The Attorney General, pursuant to N.J.S.A. 52:17A-4, is charged with the responsibility of enforcing the CFA, N.J.S.A. 56:8-1 et seq., and all regulations promulgated thereunder, N.J.A.C. 13:45A-1.1 et seq. (“CFA Regulations”). The Director, pursuant to N.J.S.A. 52:17B-124, is charged with the responsibility of administering the CFA and the CFA Regulations on behalf of the Attorney General.

7. BPU, pursuant to N.J.S.A. 48:2-13, has been granted general supervision and regulation of, and jurisdiction and control over, all public utilities, including electric and gas utilities which operate within the State as well as their property, property rights, equipment, facilities and

franchises.

8. Pursuant to the EDECA, N.J.S.A. 48:3-56,78 and 79, BPU has authority and jurisdiction to regulate electric power suppliers and gas power suppliers.

9. The EDECA defines “electric power supplier” as “a person or entity that is duly licensed pursuant to the provisions of [the EDECA] to offer and to assume the contractual and legal responsibility to provide electric generation service to retail customers . . .” N.J.S.A. 48:3-51. The EDECA further defines “electric generation service” as “the provision of retail electric energy and capacity which is generated off-site from the location at which the consumption of such electric energy and capacity is metered for retail billing purposes, including agreements and arrangements related thereto.” N.J.S.A. 48:3-51.

10. The EDECA defines “gas supplier” as “a person that is duly licensed pursuant to the provisions of [the EDECA] to offer and assume the contractual and legal obligation to provide gas supply service to retail customers . . .” N.J.S.A. 48:3-51. The EDECA further defines “gas supply service” as “the provision to customers of the retail commodity of gas . . .” N.J.S.A. 48:3-51.

11. By this action, the Attorney General, the Director and BPU (collectively, “Plaintiffs”) seek injunctive relief and other relief for violations of the EDECA, the Energy Licensing and Registration Regulations, the Retail Choice Consumer Protection Regulations, the Energy Anti-Slamming Regulations, the CFA, the Advertising Regulations and the PLA. Plaintiffs bring this action pursuant to their authority under the EDECA, specifically N.J.S.A. 48:3-82 and 48:3-83, and the CFA, specifically N.J.S.A. 56:8-8, 56:8-11, 56:8-13 and 56:8-19. Venue is proper in Mercer County, pursuant to R. 4:3-2(b), because it is a county in which the Defendants have conducted business.

12. Systrum is a Domestic For-Profit Corporation established in the State on September

30, 1982. At all relevant times, Systrum has maintained a principal business address of 1 Bergen Boulevard, Fairview, New Jersey 07022.

13. The registered agent in the State for Systrum is A. Tullo, who maintains a business address of 1 Bergen Boulevard, Fairview, New Jersey 07022.

14. At all relevant times, D. Tullo and A. Tullo have formulated, directed, controlled or participated in Systrum's management and operations.

15. Upon information and belief, John and Jane Does 1 through 10 are fictitious individuals meant to represent the owners, officers, directors, shareholders, founders, managers, agents, servants, employees, and/or representatives of Systrum who have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

16. Upon information and belief, XYZ Corporations 1 through 10 are fictitious corporations meant to represent any additional corporations who have been involved in the conduct that gives rise to this First Amended Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the First Amended Complaint to include them.

GENERAL ALLEGATIONS COMMON TO ALL COUNTS

17. At all relevant times, Systrum has advertised, marketed, offered for sale and sold gas supply service and/or electric generation service to retail customers in New Jersey.

A. Licensing of Defendants with BPU:

18. On March 7, 2007 Defendants submitted an initial application to BPU for a New Jersey Gas Supplier license for Systrum. As part of the application, D. Tullo provided a signed Certification Under Oath which provided, among other things, that "I hereby certify that the Licensee agrees to comply with all standards, rules and regulations applicable to this license and to

meet all reliability standards in accordance with N.J.S.A. 48:3-78 (Section 29c(2) of the Act), or as may be established by any applicable regulatory authority.”

19. On April 12, 2007, BPU licensed Systrum as a gas supplier and issued them the license number GSL-0085.

20. On February 3, 2011, Defendants submitted an initial application to BPU for a New Jersey Electric Power Supplier license for Systrum. As part of the application, A. Tullo provided a signed Certification Under Oath which provided, among other things, that “I hereby certify that the Licensee agrees to comply with all standards, rules and regulations applicable to this license and to meet all reliability standards in accordance with N.J.S.A. 48:3-78 (Section 29c(2) of the Act), or as may be established by any applicable regulatory authority.”

21. On April 27, 2011, BPU licensed Systrum as an electric power supplier and issued them the license number ESL-0101

22. BPU has renewed Systrum’s gas supplier and electric power supplier licenses every subsequent year, including the most recent renewals which were effective on October 16, 2013 and expire on October 15, 2014.

23. Systrum has operated as a Third Party Supplier (“TPS”) of gas and electricity in the State. Consumers who contracted for services with Systrum were still billed directly by their Local Distribution Company (“LDC”).

24. As of October 16, 2013, Systrum supplied gas to 2,305 consumers in New Jersey and electricity to 4,303 consumers in New Jersey.

**B. Defendants’ Marketing and Sale of Gas Supply
Service and Electric Generation Service Generally:**

25. Commencing on or about April 2007, Defendants advertised, marketed, offered for sale and sold gas supply service and/or electric generation service to consumers in the State.

26. At all relevant times until February 27, 2014, Defendants have advertised and offered gas supply service and/or electric generation service for sale to consumers in the State through a website at www.systrumenergy.com ("Systrum Website").

27. On or about February 27, 2014, the Systrum Website ceased operating and its contents are no longer publicly available.

28. At all relevant times until on or about February 27, 2014, Defendants have advertised and other offered gas supply service and/or electric generation service for sale to consumers in the State through radio and/or television commercials, including advertisements on the Systrum YouTube channel, <http://www.youtube.com/watch?v=eB5JQxdlag>.

29. In marketing and advertising materials, Defendants failed to identify the LDC in its service area.

30. Defendants failed to provide LDC with the number of kWhs or therms used for inclusion in the LDC's consolidated bills.

31. In certain of their marketing and advertising materials, Defendants failed to include Systrum's license number.

32. In certain of their marketing and advertising materials, Defendants failed to include the average price per kWh for electric generation service or the average price per therm for gas supply service being charged for basic generation service or basic gas supply service by the LDC over the same period.

33. In certain of their marketing materials, Defendants failed to include a clear statement indicating whether Systrum offers budget billing.

34. On the Systrum Website and/or the Systrum YouTube Channel, Defendants made the following representations about its prices and services:

- a. "New Jersey's Lowest Residential Electric Rates"
- b. "New Jersey's Lowest Electric and Natural Gas Supplier"
- c. "No contracts and no fees"
- d. "Our rate is 20% below PSE&G on the supply portion of your bill"
- e. "The lowest variable residential electric rates in New Jersey"
- f. "We are your lower cost source for natural gas"
- g. "Save up to 20%"
- h. "Same Quality and Assistance for Less"
- i. "Freedom of no contracts or cancellation fees"
- j. "We never want a customer to be misled"

**C. Defendants' Contracts for Gas Supply
Service and Electric Generation Service:**

35. Despite their advertised representation of "no contracts," Defendants submitted several Systrum contracts for gas supply service and/or electric generation service to the Board.

36. Systrum's "Natural Gas Sales Agreement- PSE&G" states that the term of contract is "month to month" and that "Systrum Energy's residential rate will match the utility's commercial posted tariff rate." The "Natural Gas Sales Agreement- PSE&G" contract does not include a statement of the residential customer's rights or a complete list of fees and misrepresents that PSE&G is a party to the contract. The "Natural Gas Sales Agreement- PSE&G" contract also does not explicitly permit consumers to terminate the contract with 48 hours notice, without penalty, as a result of relocation, disability or the customer of record's death.

37. Systrum's "Natural Gas Sales Agreement- PSE&G" requires consumers to waive their rights under New Jersey law, including the CFA, by including the following provision:

In no event shall either party be liable for any punitive, incidental, consequential, exemplary, indirect, third party claims or other damages whether based on contract, warranty, tort, negligence, strict liability or otherwise, or for lost profits arising from a breach of this agreement.

38. Systrum's "Residential Electric Sales Agreement" states that the term of the contract is "month and to month" and that "Systrum Energy's price savings will be up to 20% over a 12 month period versus the utility's posted tariff rate." The "Residential Electric Sales Agreement" does not include a statement of the residential customer's rights or a complete list of fees and does not explicitly permit consumers to terminate the contract with 48 hours notice, without penalty, as a result of relocation, disability or the customer of record's death.

39. Systrum's "Residential Electric Sales Agreement" requires consumers to waive their rights under New Jersey law, including the CFA, by including the following provision:

In no event shall either party be liable for any punitive, incidental, consequential, exemplary, indirect, third party claims or other damages whether based on contract, warranty, tort, negligence, strict liability or otherwise, or for lost profits arising from a breach of this agreement.

40. Systrum's "PSE&G Residential Sales Agreement" states that the term of the contract is month to month. The "PSE&G Residential Sales Agreement" does not include a mechanism or formula by which the price will be determined or a complete list of fees and misrepresents that PSE&G is a party to the contract. The "PSE&G Residential Sales Agreement" does not include a statement of residential customer's rights.

41. Systrum's "PSE&G Residential Sales Agreement" requires consumers to waive their rights under New Jersey law, including the CFA, by including the following provision:

In no event shall either party be liable for any punitive, incidental, consequential, exemplary, indirect, third party claims or other damages whether based on contract, warranty, tort, negligence, strict liability or otherwise, or for lost profits arising from a breach of this agreement.

42. Systrum's "Natural Gas Sales Agreement- PSE&G", "Residential Electric Sales Agreement" and "PSE&G Residential Sales Agreement" are collectively referred to as the "Systrum Contracts."

D. Consumer and Customer Service Issues

43. In addition to the fifty-five (55) consumer complaints filed with the Division and the three hundred sixty-three (363) complaints filed with BPU, an additional thirteen (13) complaints have been filed with the Better Business Bureau ("BBB").

44. Consumers cite the promise of savings as the overriding reason for switching to Systrum. Through its online, You Tube and radio advertisements, Systrum promised consumers, among other things, of savings "up to 20%."

45. Upon information and belief, most consumers agreed to terms for services with Systrum over the phone. Despite submitting the Systrum Contracts to the Board, Systrum did not require consumers to sign contracts and did not send consumers copies of contracts.

46. Consumers who agreed to terms with Systrum quickly found out that the promise of savings was an illusion. Instead of having their utility costs decreased, consumers experienced drastic price increases under their first monthly bills.

47. During the first two months of 2014, some consumers complained of their monthly bills increasing by the following amounts: (a) \$700; (b) \$537; (c) \$410; (d) \$335; (e) \$160; and (f) \$145. Similarly, some consumers experienced their monthly bills increasing by the following percentages: (a) 300%; (b) 162.2%; (c) 162.2%; (d) 159.9%; and (e) 113.5%.

48. Systrum's bills often tripled the generation amount charged to consumers; e.g., from 9.5 cents per kWh to 27 cents per kWh.

49. Many consumers who called Systrum to complain about price increases were not able

to speak to a customer service representative or a regulatory affairs representative.

50. In their written responses to certain consumer complaints, Defendants, specifically Alex E. Tullo, attributed the price increases to increased supply costs. This explanation does not account for the great variation in the price increases for consumers.

51. Systrum did not qualify its advertised promise of increased consumer savings by identifying the possibility of increased supply costs.

52. Consumers who sought to cancel their Systrum contract because of the failure of Systrum to fulfill its promise of cost savings were often either unable to speak with a customer service representative or were told that they could not immediately cancel their services because they had not provided the required thirty (30) days notice under the Terms and Conditions of the Systrum Contracts. Thus, Systrum sought to enforce the terms of contracts that consumers did not sign and had never even seen.

53. In or about March 2014, Defendants terminated most, if not all, of their consumer contracts without providing the required thirty (30) days notice and deactivated the Systrum Website.

COUNT I

VIOLATION OF THE EDECA AND ENERGY LICENSING AND REGISTRATION REGULATIONS BY DEFENDANTS (FAILING TO COMPLY WITH BASIC REQUIREMENTS)

54. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1 through 53 above as if more fully set forth herein.

55. The EDECA authorized the Board to adopt electric power supplier licensing standards and gas supplier licensing standards that require that TPS comply with such specific standards of conduct as the Board shall adopt. N.J.S.A. 48:3-78(6) and N.J.S.A. 48:3-79(6).

56. The Energy Licensing and Registration Regulations, N.J.A.C. 14:4-5.1 et seq., apply to TPS.

57. The Energy Licensing and Registration Regulations, N.J.A.C. 14:4-5.2, set forth basic requirements for an electric power supplier and gas supplier, and provide, in relevant part:

(a) An electric power supplier, gas supplier . . . license shall be issued only if an applicant meets the applicable requirements in this section, in addition to all other applicable requirements in this subchapter.

(b) To be eligible for an electric power supplier, gas supplier . . . license, an applicant shall maintain an office in New Jersey for purposes of accepting service of process, maintaining the records required under this subchapter and ensuring the licensee's accessibility to State agencies, consumers and gas and electric public utilities. To satisfy this requirement, an applicant shall:

1. Lease or own space in a building in New Jersey. The space shall be sufficient to house all records required to be kept under this subchapter. The records may be kept in electronic form; and

2. Provide the street address of the New Jersey office. A post office box or rented mail-receiving space at a mall service store shall not constitute a New Jersey office.

(c) The applicant shall document that it will make itself accessible to customers and regulators by maintaining the following:

1. An Internet website and e-mail address through which Board staff and customers can contact the applicant;

2. A customer service representative, who is available by toll-free telephone during normal New Jersey business hours to respond to complaints or inquiries from customers; and

3. A regulatory affairs representative, who is available by telephone during normal New Jersey business hours, and who will do the following:

i. Assist Board staff in pursuing investigations on behalf of the Board and/or the Division of Consumer Affairs in the Department of Law and Public Safety; and

ii. Facilitate the resolution of billing complaints and other problems.

(d) An automated telephone service shall not, by itself, satisfy the requirements in (c)2 and 3 above. Rather, the applicant shall make it possible for customers, Board staff and/or Division of Consumer Affairs staff, to speak to an individual. It is not

necessary that these representatives be located in New Jersey. However, a representative shall be available to the Board staff and/or customers within 24 hours, if necessary to resolve a problem.

.....

(g) The applicant shall agree, as a condition of the license, to provide all information requested by Board staff, or by the Division of Consumer Affairs in the New Jersey Department of Law and Public Safety, for the purpose of determining compliance with the license or this subchapter. This information shall be certified by an officer of the corporation.

58. In their offering for sale and sale of electric generation service and/or gas supply service, Defendants have violated the EDECA, N.J.S.A. 48:3-78(6), N.J.S.A. 48:3-79(6) and the Energy Licensing and Registration Regulations, N.J.A.C. 14:4-5.2, by:

- a. Failing to have a customer service representative available to respond to complaints or inquiries from consumers;
- b. Failing to maintain a functioning website;
- c. Failing to have a regulatory affairs representative available during normal New Jersey business hours; and
- d. Failing to facilitate the resolution of consumer complaints.

59. Each violation by Defendants of the Energy Licensing and Registration Regulations, N.J.A.C. 14:4-5.2, constitutes a per se violation of the EDECA, N.J.S.A. 48:3-83.

COUNT II

VIOLATION OF THE EDECA AND RETAIL CHOICE CONSUMER PROTECTION REGULATIONS BY DEFENDANTS (FAILING TO ADHERE TO ADVERTISING AND MARKETING STANDARDS)

60. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1 through 59 above as if more fully set forth herein.

61. The EDECA authorized the Board to adopt consumer protection standards for electric power suppliers and/or gas suppliers including, but not limited to, marketing and advertising, N.J.S.A. 48:3-85(a).

62. The Retail Choice Consumer Protection Regulations, N.J.A.C. 14:4-7.1 et seq., apply to all electric power suppliers and gas suppliers.

63. The Retail Choice Consumer Protection Regulations, specifically N.J.A.C. 14:4-7.3, concern advertising standards and provide, in relevant part:

(c) A TPS shall include in its advertisements of a general nature, via electronic, radio and/or television medium, the following:

1. A toll-free or local telephone number that a customer may call or website that a customer may access to request detailed information concerning the average price per kWh for, and environmental characteristics of, electric generation service or average price per therm for gas supply service over the term of a contract for the service being offered, exclusive of any charges for any optional services; and

2. The LDC(s) in whose service territory(ies) the TPS is offering services. If the TPS offers its services throughout New Jersey, the advertisement may state this fact, rather than listing all New Jersey LDCs.

64. The Retail Choice Consumer Protection Regulations, specifically N.J.A.C. 14:4-7.4, concern marketing standards and provide, in relevant part:

(a) In marketing materials provided by the TPS to residential customers for the purpose of persuading the customer to authorize a switch to the TPS for electric generation service or gas supply service, whether such materials are in hardcopy form, electronically or via internet websites, the following information, and that in either (b)1 or 2 below, shall be provided:

1. A toll-free or local telephone number, which a customer may call or website, which a customer may access to request detailed information concerning the average price per kWh for electric generation service or average price per therm for gas supply service over the term of a contract for the service being offered, exclusive of any charges for any optional services;

2. The period of time over which the advertised price is valid;

3. The term (duration) of the contract for which the advertised price is being offered;

4. The average price per kWh for electric generation service or the average price per therm for gas supply service being charged for basic generation service or basic gas supply service by the LDC over the same period;

5. The TPS's license number;

6. The LDC(s) in whose service territory(ies) the TPS is offering the advertised services. If the TPS offers its services throughout New Jersey, the materials may state this fact, rather than listing all New Jersey LDCs;

.....

8. A clear statement indicating whether or not the TPS offers budget billing.

(b) The marketing materials provided by the TPS to residential customers shall also include either of the following:

1. The estimated percentage savings on the total bill which a customer will realize under the advertised price relative to the customer taking basic generation service or basic gas supply service from the LDC; or

2. If a TPS does not offer a fixed price or guaranteed price electric generation service or gas supply service, the TPS shall describe in clear and conspicuous language the mechanism or formula by which the price is determined, and provide detailed customer bill comparison, which demonstrates for a residential customer for 250 kWh, 500 kWh, 1,000 kWh and 2,000 kWh plus any monthly fixed and/or variable charge(s) for each month of the year, the customer's total electric bill under the proposed contract with the customer's total electric bill at the same electricity usage levels for each month of the year if the customer were to remain on basic generation service; and for 50 therms, 100 therms, 150 therms and 200 therms plus any monthly fixed and/or variable charge(s) for each month of the year, the customer's total gas bill under the proposed contract with the customer's total gas bill at the same gas usage levels for each month of the year if the customer were to remain on basic gas supply service, for the term of the contract being offered, such TPS shall also clearly indicate the period of time for which the savings offer is valid, and the term (duration) of the contract being offered.

.....

(d) The TPS shall comply with all FTC telemarketing rules, including the restriction on telemarketing between the hours of 9:00 P.M. and 8:00 A.M., Eastern Standard Time.

(e) A TPS shall not market to retail customers prior to its receipt from the Board of a supplier license.

(f) The TPS shall clearly state in its solicitations to the customer, and in its marketing materials, whether in hardcopy, electronically or via internet website, that switching to a competitive third-party supplier is not mandatory, and the customer has the option of remaining with the LDC for basic generation service or basic gas supply service.

(g) For optional services being offered by the TPS, the TPS' marketing materials shall clearly and conspicuously identify each separate charge.

(h) The TPS shall not represent that it can terminate any services from the LDC, including, but not limited to, delivery or electricity and/or natural gas.

(i) The TPS shall not make misrepresentation, in its solicitations or marketing materials or any way, in violation of any standards implemented by the Board pursuant to the Act, of any other consumer protection laws or rules implemented or enforced by the Division of Consumer Affairs, or of the mechanics of the customer enrollment process adopted by the Board.

(j) The TPS shall not commit, dishonesty, fraud or deceit. . . .

65. In their offering for sale and sale of electric generation service and/or gas supply service, Defendants have violated the Retail Choice Consumer Protection Regulations, N.J.A.C. 14:4-7.4, by:

- a. Failing to identify the LDC in Systrum's service area in its advertising materials;
- b. Failing to include in marketing materials a clear statement about whether Systrum offered budget billing;
- c. Failing to include in marketing materials the average price per kWh for electric generation service or the average price per therm for gas supply service being charged for basic generation service or basic gas supply service by the LDC over the same period;
- d. Failing to include Systrum's license number in marketing materials;
- e. Misrepresenting in its advertising materials how much money consumers would save if they switched to Systrum;
- f. Misrepresenting in its advertising materials that Systrum offered "New Jersey's Lowest Residential Electric Rates;"

- g. Misrepresenting in its advertising materials that Systrum was "New Jersey's Lowest Electric and Natural Gas Supplier;" and
- h. Falsely promising consumers that they would not need a contract in order to receive services from Systrum.

66. Each violation by Defendants of the Retail Choice Consumer Protection Regulations, N.J.A.C. 14:4-7.4, constitutes a per se violation of the EDECA, 48:3-83.

COUNT III

VIOLATION OF THE EDECA AND RETAIL CHOICE CONSUMER PROTECTION REGULATIONS BY DEFENDANTS (FAILING TO ADHERE TO CONTRACT STANDARDS)

67. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1 through 66 above as if more fully set forth herein.

68. The EDECA, N.J.S.A. 48:3-85(a) authorized the Board to adopt contract standards for electric power suppliers and/or gas suppliers as follows:

(1) Contract standards shall include, but not be limited to, requirements that electric power supply contracts or gas supply contracts must conspicuously disclose the duration of the contract; state the price per kilowatt hour or per therm or other pricing determinant approved by the board; have the customer's written signature; the customer's electronic signature; and audio recording of a telephone call initiated by the customer; independent, third-party verification, in accordance with section 37 of P.L. 1999, c.23 (C. 48:3-86), of a telephone call initiated by an electric power supplier, gas supplier or private aggregator; or such alternative forms of verification as the board, in consultation with the Division of Consumer Affairs, may permit for switching electric power suppliers or gas suppliers and for contract renewal; and include termination procedures, notice of any fees, and toll-free or local telephone numbers for the electric power supplier or gas supplier and for the board.

.....

69. The Retail Choice Consumer Protection Regulations, specifically N.J.A.C. 14:4-7.6 concern contract standards and provide, in relevant part:

(a) A TPS shall not provide electric generation service or gas supply service to a retail customer without the customer's written signature on a contract or such alternative forms of verification identified in N.J.A.C. 14:4-2.3 and as the Board may permit to initiate such service(s), for switching TPSs or for renewal thereof. On or

before the date the TPS submits a change order to an LDC, and within one business day of when a customer authorizes a contract renewal, the TPS shall send a copy of the TPS contract to the customer. The TPS may do this by an electronic method or by regular mail, at the option of the customer, or if the customer signed up in person, the TPS may hand deliver the contract to the customer.

(b) A TPS contract shall clearly and conspicuously state that the purpose of the document is to authorize a change in the customer's TPS, and include explicit terms and conditions, which shall include, at a minimum:

1. A clear statement of the duration of the contract;
2. The price per kWh or therm or, if a fixed pricing arrangement is not made, a clear and unambiguous statement of the precise mechanism or formula by which the price will be determined; if the contract contains no particular pricing terms, but rather, expresses the charges for service rendered on a percentage savings basis, the contract language shall clearly and conspicuously state that percentage savings being guaranteed, as well as the price or charges to which the percentage savings is being compared;
3. A complete list of any other fees, including, but not limited to, early termination penalties, due date for payment, late payment fees and the number of days after which a late payment fee may be applied, and interest charges, which will or can be imposed on residential customers, including, but not limited to, the specific conditions under which such penalties and/or fees can be imposed;
4. A statement of the residential customer's rights, which shall provide that the customer will receive a confirmation notice of its choice of supplier and that, at a minimum, the customer will have seven calendar days from the date of the confirmation notice to contact its LDC and rescind its selection. Furthermore, that a contract for electric generation or gas supply service shall not be legally binding upon the residential customer until the seven-day confirmation period has expired, and the customer has not, directly or indirectly, rescinded his or her selection;
5. A statement of the TPS's termination rights, which shall explain the specific conditions under which the TPS may terminate service, and that at a minimum the TPS shall provide the customer with 30 days written notice of the termination and an opportunity to remedy the termination condition. The notice shall state the TPS's rights to terminate the contract, regardless of whether the customer remedies the condition that triggered the termination notice; and
6. No statement that asks any customers to waive any rights they have under New Jersey or Federal Consumer Protection laws.

- (c) A TPS contract shall include the TPS's local or toll-free telephone number, the LDC's emergency and toll-free customer service telephone numbers and the Board's Division of Customer Relations toll-free telephone number.
- (d) A TPS contract shall state that the customer should call the LDC in the event that an electric/gas-related emergency, such as a gas leak or power outage, exists.
- (e) A TPS contract shall state that, for a residential customer, there is no charge for starting or stopping electric generation service or gas supply service, if done within the terms of the contract. This subsection does not prohibit an early termination fee or other penalty for failure to adhere to a valid TPS contract.
- (f) The TPS contract shall explicitly permit a residential customer to terminate the contract, with 48 hours notice without penalty, as a result of a relocation within or outside the LDC's franchise area, disability that renders the customer of record unable to pay for the TPS's service, and/or the customer of record's death.
- (g) A TPS contract shall clearly and conspicuously display the TPS' name and license number issued by the Board.
- (h) A TPS shall file a sample copy of its residential contract(s) with the Secretary of the Board, with a copy provided to the Division of Consumer Affairs and Rate Counsel, as defined at N.J.A.C. 13:3-1.1; the initial filing of a sample copy of TPS contract(s) shall include a consumer complaint resolution process; a TPS shall file a sample copy of subsequent revisions of its contract(s) with the Secretary of the Board, with a copy provided to the Division of Consumer Affairs and Rate Counsel, within three business days. A TPS may elect to file a request for confidentiality for submitted information under the Board's Open Public Records Act (OPRA) rules at N.J.A.C. 14:1-12.
- (i) In no event shall a TPS cease to deliver electric power supply or natural gas supply, subject to the terms and conditions of the contract and the LDC tariff, to the LDC on behalf of a residential customer, upon less than the minimum 30 days notice to the customer, except pursuant to a directive from the Board staff pursuant to N.J.A.C. 14:4-5.
- (j) Where an affirmative written signature is not obtained for renewal of a residential electric generation service or gas supply service contract, the existing contract shall continue on a month-to-month basis under the current terms and conditions and pricing. This does not preclude the TPS from using any of the change order verification methods set forth in N.J.A.C. 14:4-2.3(c) to verify that the customer agrees to the renewal contract terms.
- (k) The TPS shall provide notice to the customer at least 30 days prior to the end of the electric generation service or gas supply service contract, informing the customer of the date upon which the service contract term ends.

(l) The contract may not include provisions (sometimes referred to as 'material change notices') that permit the TPS to change material terms of the contract without the customer's affirmative authorization unless the change is required by operation of law. "Material terms of a contract" include, but are not limited to, terms regarding the price, deliverability, time period of the contract, or ownership of the gas or electricity. "Non-material" terms include those regarding the address where payments should be sent or the phone number to be used for customer inquiries. Changing the price to reflect a change in the Sales and Use Tax or other State-mandated charge would be permitted as a change required by operation of law.

70. In their offering for sale and sale of electric generation service and/or gas supply service, Defendant has violated the EDECA, N.J.S.A. 48:3-85 and the Retail Choice Consumer Protection Regulations, N.J.A.C. 14:4-7.6, by:

- a. Requiring consumers to waive their rights under New Jersey law, including the CFA, through confusing language used in the Systrum Contracts;
- b. Failing to include language in the Systrum Contracts explicitly permitting consumers to terminate the contract with 48 hours notice, without penalty as a result of relocation, disability or the customer of record's death;
- c. Failing to include a statement of residential customer's rights in the Systrum Contracts;
- d. Failing to include a complete list of fees in the Systrum Contracts;
- e. Failing to include in certain of the Systrum Contracts a fixed pricing arrangement or a clear and unambiguous statement of the precise formula by which the price will be determined;
- f. Failing to provide notice to consumers at least thirty (30) days prior to the end of the electric generation service or gas supply service contract; and
- g. Terminating service to consumers without providing at least thirty (30) days notice.

71. Each violation by Defendants of the Retail Choice Consumer Protection Regulations, N.J.A.C. 14:4-7.6, constitutes a per se violation of the EDECA, N.J.S.A. 48:3-83.

COUNT IV

VIOLATION OF THE RETAIL CHOICE CONSUMER PROTECTION REGULATIONS BY DEFENDANTS (FAILING TO ADHERE TO CUSTOMER BILL STANDARDS)

72. Plaintiffs repeat and rellage the allegations contained in Paragraphs 1 through 71 above as if more fully set forth herein.

73. The Retail Choice Consumer Protection Regulations, specifically N.J.A.C. 14:4-7.7, concern customer bill standards and provide, in relevant part:

- (a) All TPS bills shall be in clear and conspicuous language and shall contain sufficient information to enable a customer to accurately calculate the correct bill amount.
- (b) All TPS bills shall include, at a minimum, all of the following:
 - 1. The billing period and billing date;
 - 2. The number of kWhs or therms used;
 - 3. The unit price for each kWh or therm.
-
- (c) If a TPS does not issue separate bills for its services, the TPS shall provide the LDC all of the following information for inclusion in the LDC's consolidated bills:
 - 1. For all customers except for commercial and industrial electricity customers, the information required as (b)(3) above ...

74. In their offering for sale and sale of electric generation services and/or gas supply service, Defendants have violated the Retail Choice Consumer Protection Regulations, N.J.A.C. 14:4-7.7, by not providing the LDC with the number of kWhs or therms used for inclusion in the LDC's consolidated bills.

75. Each violation by the Defendants of the Retail Choice Consumer Protection Regulations, N.J.A.C. 14:4-7, constitutes a per se violation of the EDECA, 48:3-83.

COUNT V

**VIOLATION OF THE RETAIL CHOICE CONSUMER
PROTECTION REGULATIONS BY DEFENDANTS
(FAILING TO ADHERE TO COMPLAINT STANDARDS)**

76. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1 through 75 above as if more fully set forth herein.

77. The Retail Choice Consumer Protection Regulations, specifically N.J.A.C. 14:4-7.9, concern complaint standards and provide, in relevant part:

(a) A TPS shall use good faith efforts to respond to and resolve all complaints promptly.

(b) If a TPS has been advised that the customer is not satisfied with the TPS's response, the TPS shall advise the customer that the customer can contact the Board, at 1-800-624-0241, to request an alternate dispute resolution procedure or to file a formal complaint.

(c) A TPS shall maintain a record of the complaints received, how resolved, and still pending, for review by the Board upon request, within three days notice.

78. In their offering for sale and sale of electric generation service and/or gas supply service, Defendants have violated the Retail Choice Consumer Protection Regulations, N.J.A.C. 14:4-7.9, by:

- a. Failing to respond to consumer complaints in a timely manner, or at all;
- b. Failing to make good efforts to resolve consumer complaints promptly; and
- c. Failing to advise consumers that they can contact the Board if they are not satisfied with Systrum's response to their complaints.

79. Each violation by Defendants of the Retail Choice Consumer Protection Regulations, N.J.A.C. 14:4-7.9, constitutes a per se violation of the EDECA, N.J.S.A. 48:3-83.

COUNT VI

VIOLATION OF THE ENERGY ANTI-SLAMMING REGULATIONS BY DEFENDANTS (FAILING TO ADHERE TO ELECTRONIC METHODS STANDARDS)

80. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1 through 79 above as if more fully set forth herein.

81. The EDECA, N.J.S.A. 48:3-86(a), authorized the Board to adopt standards “to prevent and establish penalties for unauthorized changes of a consumer’s electric power supplier or gas supplier, a practice commonly known as ‘slamming.’”

82. The Energy Anti-Slamming Regulations, specifically N.J.A.C. 14:4-2.4, address the electronic sign up or switch of customers and provide in relevant part:

(a) A TPS that uses electronic methods to sign up customers, renew customers’ contracts for service, and/or obtain authorization to switch a customer, shall comply with this section.

(b) If a TPS uses electronic methods to sign up, renew, or switch customers, the TPS shall comply with the Uniform Transaction Act, N.J.S.A. 12A12-1 through 26.

(c) A TPS that uses electronic signup, renewal or switching shall maintain a website that includes, at a minimum, the following:

1. A statement that the customer, by using electronic signup, renewal, or switching, is consenting to the terms and conditions listed on the website in electronic form;

2. A separate statement as to software requirements for a customer to access the retain electronic records of the transactions made on the website; and

3. A mechanism to obtain the customer’s acknowledgment of the customer’s affirmative obligation to provide the TPS with any change in e-mail address, and/or with any withdrawal of consent for the electronic retention of contracts or other customer information.

(d) The website through which a customer may sign up for, renew service or switch TPSs shall require the customer to pass through separate web pages that provide and collect, at a minimum, all of the following:

1. Customer information including, at a minimum, the customer's first and last name, service address, e-mail address, utility account number and, where required by a utility to complete enrollment, meter number;
 2. The full terms and conditions of the contract;
 3. A requirement that the customer assent to a statement indicating that:
 - i. The customer is the customer of record or has the authority to sign up, renew and/or change the TPS for the account listed;
 - ii. The customer has read, understands and agrees to the terms and conditions of the contract; and
 - iii. The customer is voluntarily authorizing a new enrollment, a renewal, or a switch in its TPS;
 4. A prompt to the customer to print or save the terms and conditions to which the customer assents; and
 5. An electronic method and/or an e-mail address for the customer to submit a request to cancel the contract, consistent with the terms of the contract.
- (e) A switch requested by a customer through the internet is subject to the LDC notice requirements at N.J.A.C. 14:4-2.6, as well as all other applicable provisions of this subchapter.
- (f) The receiving TPS shall send the customer a separate electronic message, acknowledging receipt of the enrollment, renewal or change.
- (g) Each TPS shall ensure that all information that is transferred electronically between a customer and the TPS is encrypted, using an encryption standard that will ensure the privacy and security of all customer information.
- (h) The TPS shall ensure that any electronic contract containing a TPS's terms and conditions shall be identified by a version number in order to ensure that the TPS, Board staff and the customer can verify the particular contract to which the customer assents.
- (i) Upon request by the customer, the TPS shall make available to the customer a copy of the terms and conditions of the contract version number that the customer has signed. The TPS shall provide to the customer a toll-free telephone number, Internet means or an e-mail address for the customer to request this information throughout the duration of the contract.

(j) A contract shall be terminated only in accordance with the termination provisions in the Board's customer protection rules at N.J.A.C. 14:4-7.10. If a contract for a customer enrolled or renewed via the Internet is terminated, the TPS shall provide a cancellation number to the customer.

83. In their offering for sale and sale of electric generation service and/or gas supply service, Defendants have violated the Energy Anti-Slamming Regulations, N.J.A.C. 14:4-2.4, by:

- a. Failing to maintain a working website;
- b. Failing to provide consumers with contract identification numbers;
- c. Failing to provide consumers with copies of their contracts;
- d. Failing to provide consumers with an electronic method and/or email address to submit a cancellation request;
- e. Failing to provide consumers with acknowledgments of their cancellation requests; and
- f. Terminating services without providing at least thirty (30) days notice.

84. The Energy Anti-Slamming Regulations, specifically, N.J.A.C. 14:4-2.8(c), provide that "[i]n considering violations of EDECA or this subchapter, the Board may consider every day of each violation against each customer as a separate offense."

85. Each violation by Defendants of the Energy Anti-Slamming Regulations, N.J.A.C. 14:4-2.4, constitutes a per se violation of the EDECA, N.J.S.A. 48:3-83 and N.J.S.A. 48:3-86(a).

COUNT VII

VIOLATION OF THE CFA BY DEFENDANTS (UNCONSCIONABLE COMMERCIAL PRACTICES, DECEPTION, MISREPRESENTATIONS AND FALSE PROMISES)

86. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1 through 85 above as if more fully set forth herein.

87. The EDECA, specifically N.J.S.A. 48:3-84, provides as follows:

a. The rights, remedies and prohibitions accorded by the provisions of this act are in addition to and cumulative of any right, remedy or prohibition accorded by the common law or any statute of this State and nothing contained herein shall be construed to deny, abrogate or impair any such common law or statutory right, remedy or prohibition. The Attorney General and the Division of Consumer Affairs in the Department of Law and Public Safety shall continue to have the authority to enforce civil and criminal violations of the consumer fraud act, P.L. 1960, c. 39 (C. 56:8-1) of any other applicable law, rule or regulation in connection with the activities of electric power suppliers and gas suppliers.

88. The CFA, N.J.S.A. 56:8-2, prohibits:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing [] concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise....

89. The CFA defines “merchandise” as including “any objects, wares, goods, commodities, services or anything offered, directly or indirectly to the public for sale.” N.J.S.A. 56:8-1(c).

90. The gas supply service and the electric generation service advertised, marketed, offered for sale and sold by Defendants comprise merchandise within the meaning of the CFA.

91. In the operation of Systum, Defendants have engaged in the use of unconscionable commercial practices, deception, false promises and/or misrepresentations.

92. Defendants have engaged in unconscionable commercial practices including, but not limited to, the following:

- a. Inducing consumers to switch electric or gas suppliers by promising savings, which did not occur;
- b. Inducing consumers to switch electric or gas suppliers by advertising that “We never want a customer to be misled” while at the same time misleading

consumers about Systrum's prices;

- c. Terminating services without providing at least thirty (30) days notice;
- d. Failing to honor a consumers' requests to cancel the service;
- e. Enforcing the terms of contracts that consumers never signed and never even saw;
- f. Making it virtually impossible (i.e. long delays, varied telephone numbers) for consumers to reach a customer service representative in order to address or resolve issues as to services and/or billing; and
- g. Failing to respond to consumers' telephone and email messages concerning their services and/or billing;

93. Defendants' conduct in violation of the CFA includes, but is not limited to, the

following acts of deception, false promises and/or misrepresentations:

- a. Promising, then failing, to provide consumers with savings on gas supply service and/or electric generation service;
- b. Misrepresenting Systrum as "New Jersey's Lowest Electric and Natural Gas Supplier;"
- c. Misrepresenting that Systrum offered "New Jersey's Lowest Residential Electric Rates;"
- d. Misrepresenting to consumers that they would not be subject to the terms of a contract if they switched to Systrum;
- e. Misrepresenting that PSE&G would be a party to certain of the Systrum Contracts

94. Each unconscionable commercial practice, false promise, misrepresentation and/or

deception by Defendants constitutes a separate violation under CFA, N.J.S.A. 56:8-2.

COUNT VIII

**VIOLATION OF THE ADVERTISING REGULATIONS
BY DEFENDANTS**

95. Plaintiffs repeat and reallage the allegations contained in paragraphs 1 through 94 above as if more fully set forth herein.

96. The Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq., promulgated pursuant to the CFA govern general advertising practices.

97. Specifically, the Advertising Regulations provide, in pertinent part:

(a) Without limiting the application of N.J.S.A. 56:8-1 et seq., the following practices shall be unlawful with respect to all advertisements:

. . . .

9. The making of false or misleading representations concerning the reasons for, existence or amounts of price reductions, the nature of an offering or the quantity of advertised merchandise available for sale.

[N.J.A.C. 13:45A-9.2(a)(9).]

98. In their advertisement, marketing and offering for sale of contracts, Defendants have engaged in conduct in violation of the Advertising Regulations including, but not limited to, the following:

- a. Misrepresenting in advertising materials that consumers would not be subject to the terms of a contract if they switched to Systrum;
- b. Advertising savings on the price of gas supply service and/or electric generation service, then failing to provide such savings;
- c. Falsely advertising Systrum as "New Jersey's Lowest Electric and Natural Gas Supplier;" and
- d. Falsely advertising that Systrum offered "New Jersey's Lowest Residential Electric Rates."

99. Each violation of the Advertising Regulations by Defendants constitutes a per se violation of the CFA, N.J.S.A. 56:8-2.

COUNT IX

VIOLATION OF THE PLA BY DEFENDANTS

100. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 99 above as if more fully set forth herein.

101. The PLA provides that:

A consumer contract . . . shall be written in a simple, clear, understandable and easily readable way. In determining whether a consumer contract has been written in a simple, clear, understandable and easily readable way as a whole, a court[] . . . shall take into consideration the guidelines set forth in section 10 [] of this act.”

[N.J.S.A. 56:12-2.]

102. The PLA defines a “consumer contract” as “written agreement in which an individual[],” among other things, “[c]ontracts for services including professional services, for cash or on credit and the money, property or services are obtained for personal, family or household purposes.” N.J.S.A. 56:12-1.

103. The guidelines set forth in the PLA are as follows:

a. To insure that a consumer contract shall be simple, clear, understandable and easily readable, the following are examples of guidelines that a court[] . . . may consider in determining whether a consumer contract as a whole complies with this act:

(1) Cross references that are confusing;

(2) Sentences that are of greater length than necessary;

(3) Sentences that contain double negatives and exceptions to exceptions;

[and]

(4) Sentences and sections that are in a confusing or illogical order[.]

....

b. The following are examples of guidelines that a court[] . . . may consider in determining whether the consumer contract as a whole complies with this act:

(1) Sections shall be logically divided and captioned; [and]

(2) A table of contents or alphabetical index shall be used for all contracts with more than 3,000 words[.]

[N.J.S.A. 56:12-10 (emphasis added).]

104. Through the use of the Systrum Contracts, Defendants have violated the PLA by, among other things:

- a. Failing to provide in certain of the Systrum Contracts a mechanism or formula by which prices will be determined;
- b. Using confusing language that impermissibly requires consumers to waive their rights under New Jersey law;

105. Taken as a whole, the Systrum Contracts are not written in a simple, clear, understandable or easily readable way.

106. Accordingly, Defendants' use of the Systrum Contracts constitutes a violation of the PLA, N.J.S.A. 56:12-2.

COUNT X

VIOLATIONS OF THE EDECA, THE ENERGY LICENSING AND REGISTRATION REGULATIONS, THE RETAIL CHOICE CONSUMER PROTECTION REGULATIONS, THE ENRGY ANTI-SLAMMING REGULATIONS, THE CFA, THE ADVERTISING REGULATIONS AND THE PLA BY DEFENDANT D. TULLO

107. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 106 above as if more fully set forth herein.

108. At all relevant times, D. Tullo has been the owner, president and/or principal of Systrum and has formulated, directed, controlled or participated in its management and operation including the unlawful acts and practices alleged in this Complaint.

109. D. Tullo is personally liable for the violations of the EDECA, the Energy Licensing and Registration Regulations, the Retail Choice Consumer Protection Regulations, the Energy Anti-Slamming Regulations, the CFA, the Advertising Regulations and the PLA.

COUNT XI

VIOLATIONS OF THE EDECA, THE ENERGY LICENSING AND REGISTRATION REGULATIONS, THE RETAIL CHOICE CONSUMER PROTECTION REGULATIONS, THE ENERGY ANTI-SLAMMING REGULATIONS, THE CFA, THE ADVERTISING REGULATIONS AND THE PLA BY DEFENDANT A. TULLO

110. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 109 above as if more fully set forth herein.

111. At all relevant times, A. Tullo has been the owner, vice-president and/or principal of Systrium and has formulated, directed, controlled or participated in its management and operation including the unlawful acts and practices alleged in this Complaint.

112. A. Tullo is personally liable for the violations of the EDECA, the Energy Licensing and Registration Regulations, the Retail Choice Consumer Protection Regulations, the Energy Anti-Slamming Regulations, the CFA, the Advertising Regulations and the PLA.

PRAYER FOR RELIEF

WHEREFORE, based upon the foregoing allegations, Plaintiffs respectfully request that the Court enter judgment against Defendants:

- (a) Finding that the acts and omissions of Defendants constitute multiple instances of unlawful practices in violation of the EDECA, N.J.S.A. 48:3-49 et seq., the Energy Licensing and Registration Regulations, N.J.A.C. 14:4-5.1 et seq., the Retail Choice Consumer Protection Regulations, N.J.A.C. 14:4-7.1 et seq., the Energy Anti-Slamming Regulations, N.J.A.C. 14:4-2.1 et seq., the CFA, N.J.S.A. 56:8-1 et seq., the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq. as well as the PLA, N.J.S.A. 56:12-1 et seq.;
- (b) Permanently enjoining Defendants and their owners, officers, directors, shareholders, founders, managers, agents, servants, employees,

representatives, independent contractors and all other persons or entities directly under their control, from engaging in, continuing to engage in, or doing any acts or practices in violation of the EDECA, N.J.S.A. 48:3-49 et seq., the Energy Licensing and Registration Regulations, N.J.A.C. 14:4-5.1 et seq., the Retail Choice Consumer Protection Regulations, N.J.A.C. 14:4-7.1 et seq., the Energy Anti-Slamming Regulations, N.J.A.C. 14:4-2.1 et seq., the CFA, N.J.S.A. 56:8-1 et seq., the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq. as well as the PLA, N.J.S.A. 56:12-1 et seq., including, but not limited to, the acts and practices alleged in this First Amended Complaint;

- (c) Directing Defendants, jointly and severally, to restore to any affected person, whether or not named in this Complaint, any money or real or personal property acquired by means of any alleged practice herein to be unlawful and found to be unlawful, as authorized by the EDECA, N.J.S.A. 48:3-82, the Energy Anti-Slamming Regulations, in accordance with N.J.A.C. 14:4-2.7(e) and 14:4-2.8(d) and the CFA, N.J.S.A. 56:8-8;
- (d) Assessing the maximum civil penalties against Defendants, jointly and severally, for each and every violation of the EDECA, in accordance with N.J.S.A. 48:3-82(a)(2), 48:3-83 and 48:3-86(e), the Energy Anti-Slamming Regulations, in accordance with N.J.A.C. 14:4-2.8 and the CFA, in accordance with N.J.S.A. 56:8-13;
- (e) Directing the assessment of costs and fees, including attorneys' fees, against Defendants, jointly and severally, for the use of the State of New Jersey, as authorized by the EDECA, N.J.S.A. 48:3-82(c), and the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19; and
- (f) Granting such other relief as the interests of justice may require.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: Jeffrey Koziar
Jeffrey Koziar
Deputy Attorney General

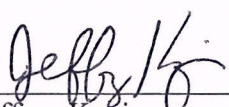
Dated: May 27, 2014
Newark, New Jersey

RULE 4:5-1 CERTIFICATION

I certify, to the best of my information and belief, that the matter in controversy in this action involving the aforementioned violations of the CFA, N.J.S.A. 56:8-1 et seq., and the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq., is not the subject of any other action pending in any other court of this State. I am aware that certain private contract and other actions have been brought against the Defendants involving consumer fraud allegations. I further certify that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action at this time.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By


Jeffrey Koziar

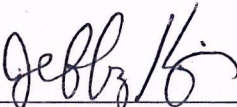
Deputy Attorney General

Dated: May 27, 2014
Newark, New Jersey

RULE 1:38-7(c) CERTIFICATION OF COMPLIANCE

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs


By: 
Jeffrey Koziar
Deputy Attorney General

Dated: May 27, 2014
Newark, New Jersey

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Deputy Attorney General Jeffrey Koziar is hereby designated as trial counsel on behalf of Plaintiffs in this action.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Jeffrey Koziar
Deputy Attorney General

Dated: May 27, 2014
Newark, New Jersey