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8
9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF MARICOPA**

11 STATE OF ARIZONA, *ex rel.* MARK
BRNOVICH, Attorney General,

12 Plaintiff,

13 vs.

14 BURUDI M. MWONYONYI, aka
15 BENJAMIN HUNTER, and JANE DOE
16 MWONYONYI, husband and wife,
17 PUBLISHERS SERVICE OFFICE, INC., a
Delaware corporation, dba MAGAZINES, and
ABC CORPORATIONS 1-25,

18 Defendants.

No. _____

**COMPLAINT FOR INJUNCTIVE AND
OTHER RELIEF**

(Unclassified Civil)

19
20 Plaintiff, State of Arizona, *ex rel.* Mark Brnovich, Attorney General, alleges as follows:

21 1. The State of Arizona brings this action under the Arizona Consumer Fraud Act,
22 Arizona Revised Statutes ("A.R.S.") §§ 44-1521 - 44-1534, to obtain injunctive relief, civil
23 penalties, restitution, investigative and litigation costs and fees, disgorgement of ill-gotten
24 gains, and other relief to, among other things, prevent the Defendants' continued engagement in
25 the unlawful acts and practices alleged herein.

26 **JURISDICTION AND VENUE**

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

28 3. The Superior Court has jurisdiction to enter appropriate orders both prior to and

1 following a determination of liability pursuant to the Arizona Consumer Fraud Act.

2 **PARTIES**

3 4. Plaintiff is the State of Arizona, *ex rel.* Mark Brnovich, who is authorized to bring
4 this action by the Arizona Consumer Fraud Act, A.R.S. § 44-1528.

5 5. Defendant Burudi M. Mwonyonyi, aka Benjamin Hunter, is the President, Chief
6 Executive Officer and director of Publishers Service Office, Inc. and conducted business in
7 Maricopa County, Arizona at all times relevant to this Complaint.

8 6. Defendant Jane Doe Mwonyonyi is named in the event that Burudi M.
9 Mwonyonyi is married and community property exists against which the State can obtain
10 monetary relief in this matter. When the State learns the true identity of Jane Doe Mwonyonyi
11 it will move to amend its Complaint accordingly.

12 7. Defendant Publishers Service Office, Inc. is a Delaware corporation that conducts
13 business in Maricopa County, Arizona under the trade name Magazines.

14 8. Whenever reference is made in this Complaint to any act or practice of Publishers
15 Service Office, Inc. such allegation shall be deemed to include the acts or practices of the
16 company and to the actions of the company's principals, owners, employees, independent
17 contractors, agents, and representatives, acting within the scope of their employment or
18 authority.

19 9. Unnamed Corporations 1-25 are named based on Plaintiff's belief that Burudi
20 Mwonyonyi used legal entities in addition to Publishers Service Office, Inc. to conduct the
21 illegal activities alleged herein. Upon discovery of the true name(s) of such corporate entities,
22 the Plaintiff will move to amend its Complaint accordingly.

23 **GENERAL ALLEGATIONS**

24 10. Defendant Burudi M. Mwonyonyi ("Mwonyonyi") incorporated Defendant
25 Publishers Service Office, Inc. ("Publishers Service Office") in the State of Delaware in
26 September, 2012 and soon thereafter filed an application with the Arizona Corporation
27 Commission to allow Publishers Service Office to conduct business in the State of Arizona.

28 11. Mwonyonyi is the President, Chief Executive Officer and Director of Publishers

1 Service Office and was so at all times relevant to this Complaint.

2 12. Mwonyonyi directed and endorsed the activities of Publishers Service Office at
3 all times relevant to this Complaint.

4 13. Publishers Service Office applied for and acquired the registered trade name of
5 "Magazines" from the Arizona Secretary of State on May 13, 2013.

6 14. For a period of time that included November, 2013, continuing through at least
7 June, 2014, Publishers Service Office, dba Magazines, initiated telephone calls from various
8 locations in Maricopa County, Arizona to consumers throughout the United States for the
9 purported purpose of selling them new or renewal periodical subscriptions.

10 15. At all times relevant to this Complaint, all of Publishers Service Office's
11 activities were conducted in the State of Arizona.

12 16. During its telephone calls to consumers, Publishers Service Office identified itself
13 as "Magazines".

14 17. Publishers Service Office initiated telephone calls to consumers about whom it
15 had purchased information, including the consumers' names, telephone numbers, mailing
16 addresses, and their current or past periodical subscription activity.

17 18. During the time it was soliciting consumers over the telephone to purchase
18 periodical subscriptions, Publishers Service Office initiated approximately 48,000 telephone
19 calls per month to consumers using an autodialer, an electronic device or computer software
20 that automatically dials telephone numbers from a list loaded into the device or software.

21 19. In addition to using an autodialer to initiate telephone calls to consumers,
22 Publishers Service Office used software that disguised the actual telephone number from which
23 Publishers Service Office was calling consumers in order to make the number appear on the
24 recipient's caller identification feature to be emanating from the state or area code in which the
25 consumer was located.

26 20. Publishers Service Office sent some consumers who it solicited over the
27 telephone invoices under the name Magazines, with a description of the periodicals purportedly
28 ordered by the consumer from Publishers Service Office and the price for such subscriptions.

1 21. Publishers Service Office sent invoices for payment of periodical subscriptions to
2 consumers who did not agree to purchase a subscription from Publishers Service Office.

3 22. The invoices – sent under the name Magazines – included the following
4 representation: “We have a recorded confirmation of you agreeing to this order. Please send in
5 payment withing [sic] the next 7 business days to stop further action.”

6 23. The invoices that Publishers Service Office sent to consumers listed the address
7 of Magazines as 5042 Wilshire Blvd., Suite 24866, Los Angeles, CA, 90036.

8 24. If a consumer who received an invoice for a periodical subscription did not make
9 a payment in response to the invoice, Publishers Service Office sent the consumer a subsequent
10 notice with “FINAL NOTICE!” stamped on front of the envelope in which it was mailed.

11 25. Included in the “FINAL NOTICE!” envelope was a return, stamped envelope for
12 the recipient-consumer to use when mailing a check to Magazines that was addressed as
13 follows:

14 Magazine
15 5042 Wilshire Blvd Suite 24866
16 Los Angeles, CA 90036

17 26. If a consumer who received an invoice for payment of a periodical subscription
18 did not send in a payment to Publishers Service Office, Publishers Service Office would
19 repeatedly telephone the consumer demanding payment, threatening various negative
20 consequences in the event the consumer did not make the payment.

21 27. In or near May, 2014, Mwonyonyi hired an Arizona licensed attorney to send
22 approximately 1,100 letters to consumers who Mwonyonyi represented to the attorney had
23 agreed to purchase a periodical subscription from “Magazines Corporation” and who had failed
24 to pay for such subscriptions.

25 28. The consumers to whom Mwonyonyi’s attorney sent letters were consumers who
26 had been solicited by Publishers Services Office, dba Magazines.

27 29. The letters that Mwonyonyi’s attorney sent to consumers on behalf of
28 Mwonyonyi and Publishers Service Office stated that the recipient consumer had agreed to pay

1 "Magazines Corporation" for a magazine subscription and that such agreement had been
2 documented by a verbal recording.

3 30. The letters that Mwonyonyi's attorney sent to consumers on behalf of
4 Mwonyonyi and Publishers Service Office included the name of the magazine the consumer
5 purportedly agreed to purchase, as well as the subscription price for the magazine.

6 31. The letters that Mwonyonyi's attorney sent to consumers on behalf of
7 Mwonyonyi and Publishers Service Office demanded payment in the amount stated in the letter
8 by a date certain, stating that the failure to make such payment would result in possible legal
9 proceedings that included attorneys' fees and costs "expected to exceed \$1,000."

10 32. Mwonyonyi reviewed and approved the form letter that was the basis for the letters
11 his attorney sent on his and Publishers Service Office's behalf, as described above, before his
12 attorney sent said letters.

13 33. Despite representations in its invoices to the contrary, and as to those consumers
14 who received an invoice but did not agree to purchase a subscription from Publishers Service
15 Office, Publishers Service Office did not have recorded confirmation of their agreements to
16 make such purchases.

17 34. Some of the consumers who received a payment demand letter from
18 Mwonyonyi's attorney did not agree to purchase a subscription from Publishers Service Office,
19 Magazines, or Magazines Corporation.

20 35. Despite representations in the payment demand letters that Mwonyonyi arranged to
21 be sent to consumers by his attorney, and as to those consumers who received such a letter but
22 did not agree to purchase a subscription from Publishers Service Office, neither Publishers
23 Service Office nor "Magazines Corporation" had a verbal recording of those consumers'
24 agreements to make such purchases.

25 36. In some cases, Publishers Service Office, dba Magazines, represented to
26 consumers who it solicited, or who it contacted for the purpose of collecting payment for a
27 periodical subscription, that Magazines was contracted and authorized by a particular
28 periodical's publisher to bill the consumer on the periodical's behalf.

1 37. Neither Mwonyonyi nor Publishers Service Office were affiliated with or
2 authorized by any periodical publisher to sell new or renewal subscriptions to the periodicals
3 that Publishers Service Office solicited consumers to purchase.

4 38. Neither Mwonyonyi nor Publishers Service Office were authorized by any
5 periodical publisher to charge or bill consumers for a new or renewal subscription to the
6 particular periodical that Publishers Service Office purportedly sold to consumers.

7 **CLAIM FOR RELIEF**

8 **VIOLATIONS OF THE ARIZONA CONSUMER FRAUD ACT**

9 **§§ 44-1521 – 44-1534**

10 39. The State re-alleges all preceding paragraphs as though fully set forth herein.

11 40. Burudi M. Mwonyonyi and Publishers Service Office, Inc., used deception,
12 deceptive or unfair acts or practices, fraud, false pretense, false promise, misrepresentation,
13 concealment or suppression or omission of material facts with intent that others rely upon such
14 concealment, suppression or omission, in connection with their solicitation of consumers to
15 purchase periodical subscriptions and in their efforts to collect payments from such consumers,
16 in violation of the Arizona Consumer Fraud Act, A.R.S. §§ 44-1521 - 44-1534 (“CFA”), to wit:

- 17 a. By falsely representing to consumers that they agreed to purchase a new or
18 renewal periodical subscription, and that Publishers Service Office, dba
19 Magazines or Magazines Corporation, had a recorded confirmation
20 thereof, the Defendants engaged in deceptive practices under the CFA;
- 21 b. By falsely representing to consumers that Publishers Service Office, dba
22 Magazines, was authorized by the publishers of periodicals to charge or
23 bill consumers on behalf of such publishers, Publishers Service Office
24 engaged in deceptive practices under the CFA;
- 25 c. By disguising the true telephone number from which its telephone
26 solicitors were calling consumers in order to make those numbers appear
27 as if they were originating from the state or area code in which the
28 consumer lived, Publishers Service Office misrepresented the geographical

1 location of its business, a violation of A.R.S. § 44-1221(A), which is a per
2 se violation of the CFA, pursuant to A.R.S. § 44-1221(C);

3 d. By disguising the true telephone number from which its telephone
4 solicitors were calling consumers, Publishers Service Office used
5 telephone equipment that blocked the caller identification function on the
6 telephone or telephone equipment of the telephone number dialed so that
7 the caller's telephone number was not displayed on the recipient telephone
8 or telephone equipment that was capable of displaying the caller's
9 telephone number, a violation of A.R.S. § 44-1278(B)(1), which is a per se
10 violation of the CFA, pursuant to A.R.S. § 44-1278(C); and

11 e. By listing the address of Magazines as 5042 Wilshire Blvd. in Los
12 Angeles, California on the invoices and return envelopes that it sent to
13 consumers, Publishers Service Office misrepresented the geographical
14 location of its business, a violation of A.R.S. § 44-1221(A), which is a per
15 se violation of the CFA, pursuant to A.R.S. § 44-1221(C).

16 41. In all matters alleged in the preceding paragraphs, Burudi M. Mwonyonyi and
17 Publishers Service Office, Inc. acted willfully, subjecting themselves to enforcement and
18 penalties as provided in A.R.S. § 44-1531(A).

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff respectfully requests that the Court:

21 1. Prohibit the Defendants from violating the Arizona Consumer Fraud Act, A.R.S.
22 §§ 44-1521 - 44-1534, pursuant to A.R.S. § 44-1528(A)(1);

23 2. Prohibit the Defendants from violating A.R.S. § 44-1221, making it unlawful to
24 misrepresent the geographical location of a business in the conduct of such business;

25 3. Prohibit the Defendants from violating the Telephone Solicitation Act, A.R.S. §§
26 44-1271- 44-1282;

27 4. Order the Defendants to pay, jointly and severally, consumer restitution, pursuant
28 to A.R.S. § 44-1528(A)(2);

