

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law - 5<sup>th</sup> floor  
124 Halsey Street  
P.O. Box 45029  
Newark, New Jersey 07101  
By: James J. Savage  
Assistant Attorney General  
(973) 877-1280

**FILED**

APR 23 2009

Division of Consumer Affairs

STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS

**IN THE MATTER OF AN INVESTIGATION** :  
**BY THE NEW JERSEY DIVISION OF** :  
**CONSUMER AFFAIRS** :  
 :  
**of** :  
 :  
**298 WHP, L.L.C. d/b/a MOTORTRANS** :  
 :  
**Respondent** :

Administrative Action  
I#08100209

**CONSENT ORDER**

This matter having been opened by the Division of Consumer Affairs, Office of Consumer Protection (hereinafter referred to as the "Division"), as an investigation to ascertain whether violations of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (hereinafter referred to as the "CFA") and the Regulations pursuant to N.J.A.C. 13:45A-1 et seq. (hereinafter referred to as the "Regulations"), have been committed by 298 WHP, L.L.C. d/b/a MotorTrans, with a principal place of business at 719 White Horse Pike, Lindenwold, NJ 08021 (hereinafter referred to as the "Respondent") and whereas the Division and Respondents (collectively, the "Parties") have reached an amicable agreement hereby resolving the issues in controversy and concluding this matter without the need for further action, and Respondents having voluntarily cooperated

with the Investigation and consented to the entry of the within Order ("Consent Order") without having admitted any violation of law or finding of fact, and for good cause shown;

IT IS on this 23<sup>rd</sup> day of April, 2009 ORDERED and AGREED as follows:

**BUSINESS PRACTICES**

1. Respondent, its principals, officers, agents, representatives and employees shall not engage in any unfair or deceptive acts or practices in the conduct of their business in the State of New Jersey and shall comply with such state laws, rules and regulations as now constituted or as may hereafter be amended, including but not limited to, the CFA, and the Regulations in connection with automotive repairs.

2. Respondents shall cease and desist from engaging in the following practices:

- a. Misrepresenting that Respondent has been a member of the Better Business Bureau since 1969 when it has only been a member since April, 2008 in violation of N.J.A.C 13:45A-26C.2(a)1;
- b. Providing a consumer with an invoice that fails to itemizes the charges for parts and labor in violation of N.J.A.C 13:45A-26C.2(a)8;
- c. Omitting the guarantor's address clearly in any document evidencing the guarantee in violation of N.J.A.C 13:45A-26C.2(a)9.iii;
- d. Failing to provide a consumer with a copy of any receipt or document that is signed by the consumer in violation of N.J.A.C 13:45A-26C.2(a)4; and
- e. Misrepresenting that repair work was conducted when it has not been, in violation of N.J.S.A. 56:8-2.

3. Specifically, Respondent shall comply with the following business practices:

- a. Represent its true accreditation as a member of the Better Business Bureau;
- b. Provide consumers with invoices that itemize charges for parts and labor;

- c. Provide the identity of the guarantor and the guarantor's address clearly in any document evidencing a guarantee;
- d. Provide all consumers with a copy of any receipt or document that is signed by the consumer; and
- e. Provide all consumers with true and accurate representations as to the status of repair work upon request.

#### **EXISTING CONSUMER COMPLAINT**

4. Respondent shall pay restitution, pursuant to N.J.S.A. 56:8-15, totaling \$800 to consumer Brian Cavanaugh, within ten (10) days of the execution of this Consent Order. Restitution payment shall be made individually to the consumer by certified check, attorney's trust check, or money order. A copy of this payment shall simultaneously be sent to: Division of Consumer Affairs, Case Management Tracking, 124 Halsey Street, P.O. Box 45025, Newark, NJ 07101.

#### **FUTURE CONSUMER COMPLAINTS**

5. For a period of twelve (12) months from the entry of this Consent Order, Consumer Affairs will forward to Respondent any consumer complaints received by Consumer Affairs within thirty (30) days of receipt of such complaint. Complaints received by any county or municipal Consumer Affairs Local Assistance (CALA) office will be forwarded to Consumer Affairs which will then forward them to Respondent within thirty (30) days of Consumer Affairs' receipt from the county or municipal CALA office. Complaining consumers will be notified by Consumer Affairs that their complaints have been forwarded to Respondent; that they should expect a response from Respondent within thirty (30) days; and of their right to arbitrate the complaint if a settlement with Respondent cannot be reached.

6. Within thirty (30) days of receiving said consumer complaints, Respondent will send a written response to each complaining consumer, with a copy to the New Jersey Division of Consumer Affairs, Office of Consumer Protection, Attention: Case Management Tracking Supervisor, 124 Halsey Street, P.O. Box 45025, Newark, New Jersey 07101.

7. If Respondents' written response does not dispute the consumer's complaint or the relief sought by the consumer, Respondents' response to the consumer shall include all documents necessary or appropriate to satisfy the consumer's requested relief, including payment or credit.

8. After the initial year, the complaint resolution procedure set forth above will automatically renew for successive one year periods unless either party provides written notice of termination within thirty (30) days of the anniversary date of this agreement. Written termination under this provision of the Consent Order shall be provided as follows: For the Division, written notice shall be forwarded via certified mail, return receipt requested, to the New Jersey Division of Consumer Affairs, Office of Consumer Protection, Attention: Executive Director, 124 Halsey Street, P.O. Box 45025, Newark, New Jersey 07101; for Respondent, written notice shall be forwarded via certified mail, return receipt requested to: 298 WHP, L.L.C. d/b/a MotorTrans, 719 White Horse Pike, Lindenwold, NJ 08021

9. Nothing contained in this Consent Order shall be deemed to waive any right of the Division of Consumer Affairs or the Attorney General to take any civil or administrative action deemed appropriate in the best interest of the public with respect to any complaint received regarding Respondent after the date of this Consent Order.

**PAYMENT TO THE STATE**

10. Respondent shall pay the Division of Consumer Affairs the sum of \$9,500 as a civil penalty pursuant to N.J.S.A. 56:8-13 and \$429.24 as reimbursement for the Division's costs pursuant to N.J.S.A. 56:8-11. The afore stated amounts, totaling \$9,929.24, shall be paid as follows: An initial payment of \$3,329.24 shall be paid on or before April 15, 2009. The remaining balance of \$6,600 shall be paid in two (2) monthly installments. The first installment of \$3,300 shall be paid on or before May 15, 2009. The final installment of \$3,300 shall be paid on or before June 15, 2009. The aforestated amounts, totaling \$9,929.24 , shall be paid by certified check, attorney trust account check or other guaranteed funds made payable to the "New Jersey Division of Consumer Affairs" and shall be delivered to the following address:

Attention: Case Management Tracking  
New Jersey Department of Law and Public Safety  
Division of Consumer Affairs  
124 Halsey Street  
P.O. Box 45025  
Newark, New Jersey 07101

11. If, after the signing of this Consent Order, Respondent engages in any acts or practices which constitute a violation of the Consumer Fraud Act, the Regulations or this Consent Order, Respondent will be subject to the imposition of enhanced penalties pursuant to N.J.S.A. 56:8-13 or N.J.S.A. 56:8-18, without prejudice to Respondent's right to present evidence in mitigation and affirmative defenses.

#### **DUTY TO COOPERATE**

12. Failure by Respondent to comply with any of the requirements of this Consent Order, including but not limited to the provisions of Paragraphs 2 through 9 and the payment provisions of Paragraph 10 shall constitute grounds for the Division to take disciplinary action against Respondent.

## **GENERAL PROVISIONS**

13. Nothing contained in this Consent Order shall be construed to limit or affect the rights of any persons or entities who are not parties to this Consent Order with respect to any of the matters contained herein.

14. Nothing contained herein shall in any manner or fashion be construed to limit or affect any position that the parties may take in any future or pending action not specifically encompassed herein.

15. If any provision of this Consent Order or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Consent Order or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision of this Consent Order shall be valid and enforced to the fullest extent permitted by law.

16. This Consent Order resolves all claims and causes of action against Respondent for violations of the CFA and the regulations promulgated pursuant thereto, which were known by the Division's Office of Consumer Protection through April 5, 2007.

17. The parties represent that an authorized representative of each has signed this Consent Order with full knowledge, understanding and acceptance of its terms and that this person has done so with the authority to legally bind the respective parties.

18. This Consent Order constitutes the entire agreement between the parties hereto and shall bind the parties hereto and their representatives, officers, directors, agents, employees, successors and assigns.

19. Respondent shall not represent or imply that any advertising procedure or other act or

practice hereinafter used or engaged in by Respondent has been required or approved, in whole or part, by the Attorney General or the Division of Consumer Affairs or any of the State's agencies or agents.

20. The parties acknowledge that for purposes of enforcement of this Consent Order, New Jersey law shall govern the terms and provisions herein.

21. The Division has advised Respondent to seek the advice of an attorney before entering into this Consent Order.

22. This Consent Order constitutes a final agency action and shall be effective upon filing.

23. Respondent acknowledges that this Consent Order is a public document subject to the New Jersey Open Public Records Act.

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY

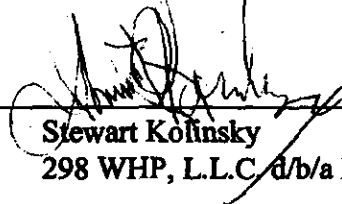
BY: 

DATED: 4/23/09

David Szuchman, Director  
Division of Consumer Affairs

The undersigned has read this Consent Order, understands it, and agrees to be bound by its terms.

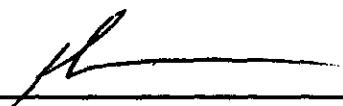
FOR THE RESPONDENTS:

By:   
Stewart Kolinsky  
298 WHP, L.L.C. d/b/a MotorTrans

Dated: April 15, 2009

Consent is hereby given as to the form and entry of this Order.

FOR THE RESPONDENTS:

By:   
Barry J. Wendt, Esq.  
212 White Horse Pike  
Haddon Heights, NJ 08035  
Attorney for Respondent,  
298 WHP, L.L.C d/b/a MortorTrans

Dated: April 15, 2009