

IN THE IOWA DISTRICT COURT FOR SCOTT COUNTY

<p>STATE OF IOWA ex rel. THOMAS J. MILLER, ATTORNEY GENERAL OF IOWA</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>MISTY BARNES (Formerly known as Misty Stein, Misty Tunnell and Misty Delgado); PAUL BARNES, PM SPECIALTIES, MILESTONE CONSULTING, AND JOHN DOE BUSINESS ENTITIES 1-5,</p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: center;">EQUITY NO. <u>EQCE132680</u></p> <p>JUDGMENT ON DEFAULT AGAINST DEFENDANTS MISTY BARNES (Formerly known as Misty Stein, Misty Tunnell and Misty Delgado), PAUL BARNES, PM SPECIALTIES, AND MILESTONE CONSULTING</p>
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The Court, having reviewed this matter for purposes of ruling on Plaintiff State of Iowa's Motion Entry of Judgment Under Rule 1.973(2) against Defendants Misty Barnes, Paul Barnes, PM Specialties, and Milestone Consulting, makes the following findings of fact and issues the following orders:

FINDINGS OF FACT

1. The Court has jurisdiction of the parties and subject matter.
2. Defendants Misty Barnes, Paul Barnes, PM Specialties, and Milestone Consulting were duly served with the Original Notice and Petition in Equity and also were sent the Notice of Intent to File Written Application for Default pursuant to Rule 1.972 of the Iowa Rules of Civil Procedure.
3. The Court is satisfied that there is no reason to believe that any of the Defendants are subject to a legal disability, are imprisoned, are in the military, or are otherwise subject to any legal defenses or exemptions that would prevent entry of this Judgment, and the Court

accordingly finds that no such defenses or exemptions serve to prevent entry of this Judgment.

4. The evidence and affidavits submitted in this case establish by a preponderance of clear, convincing, and satisfactory evidence that Defendants have violated the Consumer Fraud Act, Iowa Code § 714.16, and so doing have committed at least 19 distinct violations of the Act, as follows:

a. Defendants “cold call” a consumer, usually a small business owner, and tell the consumer that he/she owes Defendants money on a past due bill. None of the consumers had actually agreed to purchase goods or services from;

b. Defendants “cold call” a consumer and inform him/her that their recent credit card payment couldn’t be processed by Defendants and that the consumer would need to make a substitute payment. In actuality, the consumer had not agreed to purchase goods or services from Defendants and had not made a prior payment to Defendants;

c. Defendants inform the consumer that they are selling ads for the consumer’s local government and that the consumer’s advertisement will appear in local government publications;

d. Defendants sell consumers “internet boosting,” or “digital marketing boosting” services to consumers, a process actually called search engine optimization, which makes the consumer’s advertising or internet page come up at the top of results page when a search is performed on the internet. Defendants do not actually provide any such service to consumers;

e. Defendants obtained a second, duplicate payment from consumers by contacting consumers after payment, falsely telling the consumer that their payment did not process or “go through,” and thereby obtained a second and duplicate payment from

the consumer for the same goods or services which Defendants to not provide to the consumer;

f. Defendant obtain a full payment from a consumer and then later recontact the consumer and tell him/her that the consumer's prior payment was only a "partial payment" and that the consumer needs to make one or more additional payments to Defendants;

g. Defendants create and send consumers fake invoices for several hundred to several thousand dollars for goods or services which the consumer never ordered or agreed to purchase;

h. Defendants sell "digital advertising" or internet advertising to consumers, then do not create or place any ads digitally;

i. Defendants falsely tell consumers that they can get the consumer a refund of the money the consumer paid to a marketing company called Universal Ad Com, a company at which Defendants Paul and Misty Barnes used to work and from which Defendants likely obtained the customer lists;

j. Defendants falsely tell consumers that they will add the consumer to a fraud lawsuit against Universal AdCom in which Defendants claim they were involved;

k. Defendants falsely tell consumers that their prior payment made to Defendant by credit card had been refunded to the consumer's credit card, so that the consumer needed to pay Defendants again;

l. Once Defendants obtain consumers' credit card numbers, Defendants make unauthorized charges, in the form of payments to them, on the consumers' credit cards;

m. Defendants deny that consumers' credit cards they charged were charged

by them, instead they tell consumers that some other company was using their business' name and made the unauthorized credit card charges;

n. Defendants (neither of whom are licensed insurance agents) sold "insurance" to consumers (with no insurance company or insurance policy issued) as a way to obtain more money from consumers;

o. When pressed by consumers for some proof that Defendants are providing the services purchased, Defendants provide consumers with false phone verbal and written reports purporting to explain how the internet boosting was working;

p. Defendants tell consumers that Defendants will send them a "W-9" so consumers can "write off" the service purchased from Defendants on their tax returns;

q. Defendants falsely tell consumers that the "human resources department" or the "art department" will get back to the consumer, attempting to create the perception of a large legitimate company, not a scam run out of some cheap motel room;

r. Defendants sell consumers advertising in "City Event Brochures," which are nonexistent brochures that Defendants never print or have printed;

s. Defendants maintain an internet website - <https://pmspecialties.com> - that contains multiple false statements.

5. The evidence and affidavits submitted in this case also establish by a preponderance of clear, convincing and satisfactory evidence that 12 of the consumer victims who submitted affidavits in support of the State's Application for a Temporary Injunction were collectively defrauded of at least \$60,144.00, as follows:

- a. Naomi Miller was defrauded of \$23,044.00;
- b. Cindy Hotalen was defrauded of \$10,387.00;

- c. Tyler Smith was defrauded of \$8,225.00;
- d. Patricia Mankey was defrauded of \$7,100.00;
- e. James Jones was defrauded of \$2,751.20;
- f. Dawn Cech was defrauded of \$2,600.00;
- g. Susan Dumont was defrauded of \$1,589.00;
- h. JoAnn Reichers was defrauded of \$1,400.00;
- i. Melissa Malone was defrauded of \$1,109.00;
- j. Randy Kaiser was defrauded of \$850.00;
- k. Marie Dixon was defrauded of \$589.00;
- l. Marilyn Jackson was defrauded of \$500.00.

IT IS THEREFORE ORDERED pursuant to Iowa R. Civ. P. 1.973(2) and Iowa Code §714.16(7) that the Temporary Injunction entered by this Court on April 1, 2020 is hereby made permanent. Defendants and each of Defendant's agents, employees, independent contractors, salespersons, servants, representatives, officers and directors, principals, partners, members, affiliates, predecessors, successors, assigns, merged or acquired predecessors, parent or controlling entities, and all other persons, corporations, and business entities acting in concert with or participating with Defendants, including but not limited to and any other person who has actual or constructive notice of the court's injunction, individually, in conjunction with others, or directing others to do on their behalf, are **permanently enjoined** from:

- 1. Creating, incorporating, filing, employing, or using any form of partnership, sole proprietorship, corporation, LLC or any other form of business entity, for the purpose of conducting any business or activity involving:
 - a. telemarketing;

b. internet, search engine or marketing boosting services, however described;

c. consulting services involving marketing and telemarketing;

d. Universal Adcom and any claim of ability to obtain refunds for consumers from Universal Adcom, add consumers to any alleged litigation involving Universal Adcom, or issuing “Cease and Desist” letters to Universal AdCom on behalf of Consumers;

e. the sale of advertising in any form; and the sale of promotional items containing advertising;

f. engaging in telemarketing, that is, the marketing of goods or services by means of telephone calls to potential customers;

2. Using electronic or digital means, including but not limited to emails, text and internet messages, social media and social media messaging, and websites, whether such accounts or means are in Defendant’s names or the names of third persons or entities, to communicate with potential customers for the purpose of soliciting customers for sales of goods or services;

3. Applying for and/or using any merchant account, credit card processing account, mobile banking application, and/or bank account, whether such account is applied for in the name of a Defendant or using the name of third person or entity, for the purpose of conducting any business or activity involving:

a. telemarketing;

b. the sale of advertising;

c. internet or marketing boosting services, however described;

- d. consulting however described;
- e. the sale of promotional items;
- f. the sale of promotional items containing advertising;
- g. directing, accepting and/or receiving photographs of consumers' checks for purposes of depositing same into one or more of Defendant's bank accounts.

IT IS FURTHER ORDERED that pursuant to Iowa Code §714.16(7), a civil penalty is imposed jointly and severally against all Defendants in the amount of \$40,000 for each of the 19 distinct violations of the Consumer Fraud Act detailed in the Findings of Fact above, for a total civil penalty of \$760,000.00.

IT IS FURTHER ORDERED that the Defendants are ordered to make restitution to each consumer victim who provided substantial assistance to the State in its investigation and prosecution of this matter totaling \$60,144.00, to be distributed as follows:

1. an award of \$23,044.00 in restitution to Naomi Miller
2. an award of \$10,387.00 in restitution to Cindy Hotalen
3. an award of \$8,225.00 in restitution to Tyler Smith;
4. an award of \$7,100.00 in restitution to Patricia Mankey;
5. an award of \$2,751.20 in restitution to James Jones;
6. an award of \$2,600.00 in restitution to Dawn Cech;
7. an award of \$1,589.00 in restitution to Susan Dumont;
8. an award of \$1,400.00 in restitution to JoAnn Reichers;
9. an award of \$1,109.00 in restitution to Melissa Malone;
10. an award of \$850.00 in restitution to Randy Kaiser;

11. an award of \$589.00 in restitution to Marie Dixon;
12. an award of \$500.00 in restitution to Marilyn Jackson.

IT IS FURTHER ORDERED that pursuant to Iowa Code §714.16(11) Defendants shall pay to the Attorney General, costs of the court action and any investigation which may have been conducted, including reasonable attorneys' fees, for the use of this state. The Plaintiff shall submit attorney fee affidavits establishing the amount of attorney fees to which the State is entitled.

IT IS FURTHER ORDERED that costs are assessed to the Defendants.



State of Iowa Courts

Type: ORDER FOR JUDGMENT

Case Number **Case Title**
EQCE132680 STATE OF IOWA EX REL VS BARNES, MISTY AND PAUL

So Ordered

A handwritten signature in black ink that reads "M. Fowler".

Mark Fowler, District Judge
Seventh Judicial District of Iowa