

FILED
SAN MATEO COUNTY

DEC 03 2021

Clerk of the Superior Court

By 
DEPUTY CLERK

IN AND FOR THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN MATEO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

MONTGOMERY-SANSOME, LP,
LEONARD NORDEMAN

Defendants.

No. 17CIV04659

**FINAL STATEMENT OF
DECISION**

This matter was tried as a court trial and submitted on September 30, 2021. On October 27, 2021, the Court issued a Proposed Statement of Decision. On November 10, 2021 the defendants filed their objections. Having considered all the evidence, arguments and objections, the court now issues its final decision as follows:

I. BACKGROUND

A. The Litigation

The People filed their enforcement action against the defendants on October 11, 2017. The evidence is undisputed that defendant Montgomery-Sansome, LP, is 99% owned by general partner and co-defendant Leonard Nordeman. Mr. Nordeman testified that he is the owner and manager of defendant Montgomery-Sansome, LP, and defendant Montgomery-Sansome, LP and its employees act under his exclusive direction and control. The Court finds defendant Mr. Nordeman is the

1 responsible corporate officer of Montgomery-Sansome, LP, and that both defendants are jointly and
2 severally liable for all violations found in this case as well as the civil penalties imposed. Both
3 defendants will be subject to the same injunctive terms, as stated herein.

4 On June 20, 2018, Mr. Nordeman filed a Verified Cross-Complaint against several insurance
5 carriers, and then a First Amended Cross-Complaint Sept. 13, 2018. On Oct. 9, 2018, Mr. Nordeman
6 filed a Motion to Compel, which was denied by the Honorable Susan L. Greenberg on Nov. 20, 2018.
7 On Jan. 4, 2019, Mr. Nordeman moved to dismiss his Cross-Complaint against Mercury Insurance,
8 with prejudice, and on Jan. 9, moved to dismiss, with prejudice, against CSAA Insurance. In light of
9 the Court's decision, the defendant's Cross-Complaint is moot. The Court further finds the defenses
10 raised in the defendants' Verified Answer were not established and are moot in light of the Court's
11 decision.

12 At the close of evidence, the defendants filed a Motion for Judgment in which the defendants
13 argued the People had not proven the element of compensation for purposes of the Public Insurance
14 Adjuster Act violations alleged. The motion was denied, and in light of the Court's decision, the
15 defendants' Motion for Judgment is also moot.

17 **II. Relevant Legal Standard**

18 The burden was on the People to prove by a preponderance of the evidence that the
19 defendants violated the False Advertising Law and Unfair Competition Law as alleged in the First
20 and Second Causes of Action. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 866.) The
21 People have met their burden as to both defendants. The People established, and the defendants did
22 not contest, that the activities at issue were "business acts or practices" under the Unfair Competition
23 Law. The People have also established the activities involved the sale of services under the False
24 Advertising Law. (Bus. & Prof. Code §§ 17200 and 17500; *People v. E.W.A.P., Inc.* (1980) 106
25 Cal.App.3d 315, 319)

1 **A. First Cause of Action, False or Misleading Advertising (Bus. & Prof. Code §§**
2 **17500 et seq.)**

3 Business and Professions Code § 17500 et seq., also known as California’s False or
4 Misleading Advertising Law (FAL), makes it unlawful to knowingly or negligently make any public
5 statement relating to real or personal property or services that is untrue or misleading with the intent
6 to dispose of real or personal property, or to perform services. The intent to deceive is not necessary.
7 It is a negligence statute (“known or by the exercise of reasonable care should be known to be untrue
8 or misleading”). The People did not have to prove the intent to deceive, reliance or damages. (*See*
9 *generally Chern v. Bank of America* (1976) 15 Cal.3d 866, 876; *People v. Superior Court (Olson)*
10 (1979) 96 Cal.App.3d 181, 190.) Identifiable victims are not required because section 17500 prohibits
11 the likelihood of deception. (*Chern v. Bank of America, supra* at 876.) False or misleading
12 advertising is both a violation of section 17500, and of California’s Unfair Competition Law or UCL.
13 Cal Bus & Prof Code § 17200.

14 Here, the People have proven by a preponderance that the defendants violated the FAL, by
15 promising homeowners who had suffered fire damage to their homes that the defendants would
16 negotiate with the homeowners’ insurers regarding what the insurers would pay on the claim. This
17 was false or misleading because the defendants could not lawfully negotiate with the insurers
18 regarding the homeowners’ insurance claims. The defendants also included repair costs in contracts
19 which were presented to homeowners which were untrue, because the defendants did not actually
20 intend in good faith to complete repairs for the included cost, instead intending to use those contracts
21 to negotiate increased cost with the homeowners’ insurers. Mr. Nordeman even testified the numbers
22 were just “placeholders”. These false costs were false and misleading statements meant to sell the
23 defendants’ services to those homeowners who were presented the contracts.

1 **B. Second Cause of Action, Unfair Competition (Bus. & Prof. Code §§ 17200 et seq.)**

2 The People’s second cause of action alleged violations of Business and Professions Code §
3 17200 et seq. Section 17200 defines “unfair competition” to include any “unlawful, unfair or
4 fraudulent business act or practice...” The proscriptions are in the disjunctive, so the People needed
5 only prove the defendants committed either an unlawful, unfair or fraudulent business act or practice.
6 (*Stop Youth Addiction, Inc. v. Lucky Stores, Inc.* (1998) 17 Cal.4th 553, 570; *Podolsky v. First*
7 *Healthcare Corp.* (1966) 50 Cal.App.4th 632, 647.) In this case, the People alleged the defendants
8 violated the UCL because the business practices at issue were unlawful.

9 An “unlawful” business practice includes “anything that can properly be called a business
10 practice and that at the same time is forbidden by law.” (*People v. McKale* (1979) 25 Cal.3d 626,
11 632; *Barquis v. Merchants Collection Assn.* (1972) 7 Cal.3d 94, 111-112.) As noted, the defendants
12 did not contest that the activities at issue were business acts or practices, and the People have
13 established they were.

14 The only defense to an allegation of an unlawful business act or practice based upon a
15 violation of another law is that the underlying law was not violated. (*Hobby Industry Assn. of*
16 *America, Inc. v. Younger* (1980) 101 Cal.App.3d 358, 372.) As detailed below, the People have
17 proven by a preponderance that the defendants violated each of the underlying laws at issue in this
18 case by making false or misleading statements in violation of the FAL, engaging in unlawful public
19 insurance adjusting in violation of the Public Insurance Adjuster Act, and by using unlawful home
20 improvement contracts, in violation of Bus. & Prof. Code § 7159. The laws which contractors must
21 follow are very specific, and the law public insurance adjusters must follow is specific. The fact the
22 defendants may feel they have the expertise to negotiate with insurance carriers regarding
23 homeowners’ insurance claims does not comport with the current status of the law.

1 **C. Underlying Violations**

2 The People proved by a preponderance the defendants violated the Public Insurance Adjuster
3 Act. The Public Insurance Adjuster Act is found at Insurance Code §§ 15006-15032. The Act applies
4 to anyone who, “for compensation, acts on behalf of or aids in any manner, an insured in negotiating
5 for or effecting the settlement of a claim or claims for loss or damage under any policy of insurance
6 covering real or personal property or any person who advertises, solicits business, or holds himself or
7 herself out to the public as an adjuster of those claims and any person who, for compensation,
8 investigates, settles, adjusts, advises, or assists an insured with reference to claims for those losses on
9 behalf of any public insurance adjuster.” Insurance Code § 15007.

10 In *Building Permit Consultants, Inc. v. Mazur*, 122 Cal. App. 4th 1400, the party found to
11 have engaged in unlawful public insurance adjusting, BPC (Building Permit Consultants), argued the
12 Public Insurance Adjuster Act should be read narrowly to apply only to those who received
13 compensation for services or who provided assistance to the insured with reference to claims.
14 However, the court disagreed, noting Insurance Code § 15007 was drafted in broad terms to apply to
15 everyone who “aids in any manner” an insured in negotiating for or, “affecting the settlement of a
16 claim.” *Mazur*, supra at 1409. The court went on to state “The terms of the statute are broad, and
17 concern all persons... whose conduct or involvement impacts the resolution of the insurance claim.”
18 *Mazur*, supra at 1410. The Court finds the defendants negotiations with homeowners’ insurance
19 carriers regarding payouts on the homeowners’ insurance claims was unlawful public insurance
20 adjusting, in violation of Insurance Code § 15006 et seq.

21 The People also proved by a preponderance the defendants violated the Home Improvement
22 Contract law found in Bus. & Prof. Code § 7159. Section 7159 requires all contracts for home
23 improvement to include, with some limited exceptions, specific language advising consumers of,
24 among other things, the scope, cost, start and end dates, and homeowner rights and responsibilities
25 for the project(s). Home improvement is defined as “the repairing, remodeling, altering, converting,

1 or modernizing of, or adding to, residential property ‘Home improvement’ shall also mean the
2 installation of home improvement goods or the furnishing of home improvement services.” Bus. &
3 Prof. Code § 7151. The Court has reviewed the exhibits containing the contracts used by the
4 defendants, and considered the testimony of witnesses regarding those contracts, and finds the
5 contracts called for the repair of fire damaged real property and are subject to the requirements of §
6 7159, even if the defendants labeled some of those contracts as “consulting contracts.”

7 **D. Compensation**

8 The defendants argued the compensation element of the Public Insurance Adjuster Act was
9 not proven, because the defendants were not expressly charging a fee for public insurance adjusting,
10 and because the payments they received from the homeowners’ insurers was invoiced for the repair
11 work the defendants were contracted to perform. The Court also read and considered the cases and
12 statutes presented by the defendants in support of their argument they were not paid compensation
13 within the meaning of Insurance Code § 15007, however, the Court disagrees with the defendants’
14 interpretations of those cases and statutes and finds they do not support the narrow and limited
15 definition of compensation suggested by the defendants. The Court finds the defendants were
16 compensated for their negotiations with the homeowners’ insurers by the repair work they were
17 awarded by the homeowners, and through the additional claim payouts the defendants negotiated
18 with the homeowners’ insurers. As such, the element of compensation has been proven in this case.

19 20 **III. EVIDENCE PRESENTED AT TRIAL**

21 The People called three homeowners who had hired the defendants to make repairs. The first,
22 Guy Lichtenwalter, testified to defendants offer to make repairs to his burned garage, but the
23 defendants were unable to negotiate with Mr. Lichtenwalter’s insurer to pay an amount the
24 defendants were willing to do the repairs for. The defendants went ahead and started work, although
25 no contract was ever signed by Mr. Lichtenwalter. Claudette McGhee testified that she hired the

1 defendants to complete repairs on a fire-damaged rental property, but the defendants walked away
2 from the project after 8 months of negotiations with Ms. McGhee's carrier failed to get an agreement
3 from the insurer regarding cost and scope of repairs the defendants would agree to. Ms. McGhee
4 testified on cross that she did not feel the defendants had misused her. Kristina Perez testified briefly
5 regarding hiring the defendants to make repairs, which eventually led to a lawsuit wherein the
6 defendants were found to have engaged in unlawful public insurance adjusting. However, because
7 Ms. Perez' repair contract fell outside the statute of limitations applicable to this case, her testimony
8 was admissible only to show defendants' knowledge of the public insurance adjuster regulations, and
9 has been considered by the Court for that purpose only.

10 The People also called Dept. of Insurance Investigator Leanne Borden, who testified the
11 Department received a complaint against the defendants. Ms. Borden investigated the complaint and
12 the Department subsequently issued a Cease and Desist letter, ordering the defendants not to engage
13 in unlicensed public insurance adjusting. On cross, Ms. Borden testified she did not find specific
14 evidence of compensation for public insurance adjusting during her investigation. The People also
15 called Contractors State License Board Lead Special Investigator Robert Twomey, who testified to
16 the expertise the Board requires contractors to have in order to be licensed, and that a contractor's
17 ability to estimate cost and scope of repairs prior to entering into contract with a homeowner was
18 expected of a licensee. He also testified the Board considered inclusion of cost and scope to be a
19 crucial part of Bus. & Prof. Code § 7159 compliance.

20 The People called expert witness Ron Reitz, who the Court qualified to give expert testimony
21 regarding public insurance adjusting. Mr. Reitz testified to the work public insurance adjusters do,
22 and of his review of the defendants' work files. He testified that the work files showed the defendants
23 sought to impact the outcome of homeowners' insurance claims, by negotiating increases in the
24 amount to be paid on the claim, and were thus engaged in unlawful public insurance adjusting. On
25 cross examination, Mr. Reitz provided examples of cases in which the defendants had discussed

1 Additional Living Expenses (ALE) with the homeowners' insurer, and had submitted a notarized
2 proof of loss for a homeowner, both things public insurance adjusters are responsible for. Mr. Reitz
3 testified the defendants were compensated for their negotiations with the carrier.

4 The People called defendant Leonard Nordeman, who testified at length regarding the work
5 the defendants do, and the focus of the defendants' business on fire-damaged residential property. In
6 addition to testimony, a number of exhibits were introduced without objection, consisting of
7 documents, including contracts, from defendants' contracting work files. Mr. Nordeman was
8 provided with a number of contracts and emails contained in the exhibits which he testified to,
9 including detailing the defendants' negotiations with insurers. He testified to the defendants' use of
10 sub-contractor estimates to convince insurers to agree to "supplementals" and change orders which
11 increased the cost and scope of repairs to be paid on the various homeowners' claims. Mr. Nordeman
12 testified that he routinely stopped repair work until the insurers agreed to the increased cost and
13 scope, but testified that was necessary in order to ensure he was paid. Mr. Nordeman testified that he
14 was never compensated for the negotiations, but only paid for repair work he completed. However,
15 he acknowledged that he always billed a standard 10% profit and 10% overhead, which increased as
16 the claim payouts increased. As previously stated herein, the Court finds he was compensated
17 through the increased payouts and awarding of the contracts.

18 The defendants called an expert witness, Frank Zeigon, who the Court qualified to testify to
19 the claims adjusting process. Mr. Zeigon, who had significant experience within the insurance
20 industry, testified to the steps involved in establishing what an insurer will pay on a claim, and
21 testified to some of the things that public insurance adjusters will assist homeowners with. On cross,
22 Mr. Zeigon testified that he had not reviewed any of the defendants work files, nor had he spoken to
23 the defendants about their specific work practices. The Court finds that Mr. Zeigon's testimony did
24 not establish any defense to the defendants' unlawful business practices.
25

1 The evidence showed defendants are licensed contractors who solicit homeowners who have
2 suffered fire damage to their residential properties. The defendants offer to negotiate with the
3 homeowners' insurance carriers 'at no cost', in return for the contract to make repairs, for the full
4 proceeds paid on the homeowners' insurance claim. Defendants advertise through their website, and
5 by directly contacting homeowners who have suffered fires to offer their services. The defendants use
6 flyers that describe their services, including promising to negotiate with the homeowners' insurance
7 carrier to increase payment for repairs. As part of their offers to negotiate with insurers, the
8 defendants entered into contracts, as a matter of course, which Mr. Nordeman described as
9 "consulting" or "construction consulting" contracts. These "consulting" contracts called for the
10 defendants to negotiate with the homeowners' insurance carriers regarding what the defendants
11 describe as the "true value" of the repairs to be paid by the insurer.

12 This was unlawful because negotiating for or seeking to affect the outcome of an insurance
13 claim, for profit, is public insurance adjusting, which is regulated by the Public Insurance Adjuster
14 Act. To engage in public insurance adjusting, defendants needed to be licensed, and to comply with
15 all conflict of interest and consumer protection regulations contained in the Public Insurance Adjuster
16 Act. The Court finds the defendants are not and have never been licensed as a public insurance
17 adjuster and did not comply with the applicable conflict of interest regulations or consumer
18 protections. As established by expert witness Ron Reitz, a contractor is not a party to the
19 homeowners' insurance claim, and has no business getting involved in the settlement process.
20 However, the defendants did exactly that numerous times.

21 22 **IV. FINDINGS AND REMEDIES**

23 **A. The Defendants Violated the False or Misleading Advertising Law**

24 The Court finds the allegations in the First Cause of Action, False or Misleading Advertising
25 in violation of Bus. & Prof. Code § 17500 et seq. to be true. The defendants used advertising which

1 contained false or misleading statements, because the advertising promised the defendants would get
2 the prospective homeowners' insurance carriers to pay for all the damage. For example, Mr.
3 Nordeman identified Exhibit 126 as an advertising flyer the defendants presented to homeowners
4 who suffered fire damage to their homes. In Exhibit 126, the defendants included a chart which
5 showed substantial increases in "current scope of work being covered by insurance carrier" after the
6 defendants were hired by various homeowners. The Court finds a single violation of the False or
7 Misleading Advertising statute in Exhibit 126, and thus additionally a violation of the UCL.

8 **B. The Defendants Violated the Unfair Competition Law**

9 The Court finds the defendants engaged in False or Misleading Advertising, violated the
10 Public Insurance Adjuster Act and the Home Improvement Contract law, and therefor violated the
11 Unfair Competition Law under the unlawful business act or practice prong. After considering the
12 testimony and exhibits admitted at trial, the Court finds the following violations of the UCL: In
13 defendants contract found in Exhibit 112-A, bates 292-293, the Court finds there was no cost or
14 description of the project as required by Bus. & Prof. Code §§ 7159(d)(5) and 7159(d)(7). The Court
15 finds those are two separate violations of the UCL.

16 The Court finds two more violations of section 7159 in the contract found in Exhibit 112-B,
17 bates 294-297, which contains no description of the project in violation of section 7159(d)(7) or
18 description of materials in violation of section 7159(d)(7). The Court finds those are two separate
19 violations of the UCL. In the "proposal" in Exhibit 112-C, bates 302-303, the defendants state the
20 funding by the carrier is sufficient, which was a false statement since the Court finds the defendants
21 intended to seek additional payment from the insurer. The Court is only counting this as a single
22 violation of the UCL, not a separate violation of the FAL as well.

23 The Court finds a single violation of the Public Insurance Adjuster Act in Exhibit 112-G,
24 bates 307-309. The People asked the Court to find that within Exhibit 112 there were 17 separate
25 UCL violations for Public Insurance Adjusting, based on an estimate of how much many months the

1 project was delayed by the defendants' negotiations with the homeowner's insurance carrier.

2 However, although the Court could find many more violations, the Court is exercising its discretion
3 to find only one UCL violation for unlawful public insurance adjusting in Exhibit 112-G, not 17.

4 In the work file records contained in Exhibit 113, the Court finds two violations of the FAL
5 and 18 violations of the UCL, as follows. The Court finds two UCL violations in the contracts found
6 in Exhibits 113-A, bates 1349-1352, which contains no cost or scope of work, and 113-B, bates 1353-
7 1359, which reflects unlawful negotiations with the carrier. Another violation in Exhibit 113-F, bates
8 1364, where the defendant admits negotiating with the carrier on the change order. In an email in
9 Exhibit 113-H, bates 1422-1424, unlawful negotiations with the carrier is shown, which is counted as
10 another violation. In another email, bates 1437, defendants threaten a work stoppage if the carrier
11 doesn't agree, which was unlawful public insurance adjusting and another UCL violation. The Court
12 finds more unlawful negotiations in the emails at bates 1480, 1528, 1553, 1564-1565, which the
13 Court counts as additional UCL violations. Again, in sum, the Court finds two violations of the FAL
14 and 18 violations of the UCL within Exhibit 113.

15 The Court further finds an additional four violations of the UCL in the defendants' work file
16 documents contained in Exhibit 114. Exhibit 114, in sum, reflects that the defendants were doing all
17 the negotiating with the homeowner's insurance carrier, and had effectively cut the homeowner out of
18 the claim process. The Court finds a single UCL violation for each of the contracts and estimates
19 found in Exhibit 114-A, 114-B and 114-C, because they reflect unlawful public insurance adjusting
20 and the contracts do not comply with section 7159, as well as another violation of the UCL for
21 unlawful negotiations with the carrier on Exhibit 114-D.

22 In defendants' work files in Exhibit 115, the Court finds three more violations of the UCL as
23 follows. The Court finds the contract in Exhibit 115-A, bates 3420-3423, to be an unlawful public
24 insurance adjusting contract, because it calls for the defendants to unlawfully negotiate with the
25 homeowners' insurer. The Court counts that as a single violation of the UCL. The Court finds similar

1 unlawful public insurance adjusting in violation of the UCL in Exhibit 115-B, bates 3428, and more
2 unlawful public insurance adjusting is found in the change order in Exhibit 115-D.

3 In defendants' work file in Exhibit 116-A, bates 3663-3666, the Court finds the defendants
4 engaged in unlawful public insurance adjusting through use of another consulting agreement, and the
5 Court counts that as a single violation of the UCL. In the home improvement contract in Exhibit 116-
6 B, bates 3659-3667, the Court finds the defendant did not include a true cost, which the Court counts
7 as a single UCL violation. Similarly, in the change order in Exhibit 116-D, bates 3670, the cost is
8 open-ended and it reflects unlawful public insurance adjusting negotiations with the carrier, which
9 the Court counts as a single UCL violation. In the emails found in Exhibit 116-G, bates 3675, 3678,
10 3679 and 3757, the Court finds the defendants were unlawfully representing the owner to the carrier
11 and negotiating on the claim, and finds a single violation of the UCL in those communications.

12 In the work file found in Exhibit 123, bates 3481-3486, the Court finds one violation of the
13 UCL for unlawful efforts to negotiate cost with the homeowners' insurance carrier, in violation of the
14 Public Insurance Adjuster Act. In the work file in Exhibit 125, bates 4016-4021, the Court finds the
15 defendants used an unlawful home improvement contract in violation of the UCL. In the work file in
16 Exhibit 132, the defendants' home improvement contract shows unlawful public insurance adjusting,
17 where the contract contains no cost or scope and the homeowner wrote in the contract "for insurance
18 proceeds I agree" to the defendants completing repairs. The Court counts this as one UCL violation.
19 Finally, in the work file Exhibit 137, bates 1255-1259 and 1266-1267, the Court finds both an
20 unlawful home improvement contract and the letter to the carrier show unlawful public insurance
21 adjusting and finds a single violation of the UCL.

22 Again, in sum, the Court is finding 42 violations of the UCL, and 3 violations of the FAL, for
23 a total of 45 violations. The People asked the Court to find additional UCL and FAL violations in the
24 work files in Exhibits 117-121. However, the Court declines to do so, because the Court finds there
25 was not sufficient evidence of the defendants receiving compensation for their negotiations with the

1 carriers within those documents. The Court has engaged in a very conservative calculation of the
2 number of violations in this case, and declines to use a per day calculus which was suggested by the
3 People, and which could have resulted in over 900 violations. The Court could have found over 100
4 violations within the exhibits, but the Court is exercising its discretion to choose to find only the
5 violations which were most clearly shown by the evidence in this case.

6 **C. The Defendants Must Pay Civil Penalties**

7 Pursuant to Business and Professions Code § 17206(b), civil penalties of up to \$2,500 must
8 be ordered for each violation of section 17200. *People v. Custom Craft Carpets, Inc.* (1984) 159
9 Cal.App.3d 676, 686. What constitutes a single “violation” depends on the type of violation involved,
10 the number of victims, and the repetition of the conduct constituting the violation—in brief, the
11 circumstances of the case. *People v. Witzerman* (1972) 29 Cal.App.3d 169, 180. In a proper situation,
12 a single act in violation of regulations may constitute an unlawful business practice, a violation for
13 which a penalty of up to \$2,500 may be imposed. *People v. Beaumont Investment Ltd* (2003) 111
14 Cal.App.4th 102, 129. The Court, as articulated above, has determined that the evidence in this case
15 supports the finding of the specific UCL and FAL violations described above, which reflect both
16 separate victims, as well as separate instances distinct in time.

17 To determine the appropriate civil penalty to apply to the violations found in this case, the
18 Court has considered the evidence and the factors articulated in Bus. & Prof. Code § 17206(b), both
19 in terms of the UCL violations found and the FAL violations found. The Court has specifically
20 considered the vulnerability of the homeowners who had suffered fire damage, the sophistication of
21 the defendants’ business operation, the ongoing and persistent unlawful business practices, and the
22 lengths the defendant would go to in order to circumvent the law, going so far as to have homeowners
23 assign their insurance claim rights to him. The Court finds the defendants’ use of assignment of
24 benefits was merely a clever way for the defendants to try to avoid the public insurance adjusting
25

1 regulations. In mitigation, the Court notes the People did not have witnesses who were disgruntled or
2 unhappy clients of the defendants, which lessens the egregiousness of the case.

3 After consideration of the aggravating and mitigating factors, the Court finds the defendants'
4 unlawful business practices in violation of the UCL and FAL were done with knowledge and intent.
5 The defendants' actions were not a mistake, and were not the result of inadvertence. The Court, in
6 weighing the factors, chooses to impose the middle of the possible \$2,500.00 civil penalty, and
7 imposes \$1250.00 in civil penalties per violation. The total civil penalties in this case therefore are
8 \$56,250.00.

9 **D. A Permanent Injunction Against the Defendants is Appropriate**

10 Injunctive relief under the UCL is available to enjoin anyone "who engages, has engaged, or
11 proposes to engage" in acts of unfair competition, as expansively defined in section 17200. (Bus. &
12 Prof. Code § 17203.) Defendants' deceptive statements and misleading conduct in violation of
13 section 17500 may also be enjoined under Bus. & Prof. Code § 17535.

14 An injunction may be as comprehensive as needed to stop deceptive and illegal conduct.
15 "While an injunction may not go against statutory law, it may go beyond statutory law. A court
16 sitting in equity has broad power to fashion relief to fit the facts before it." (People v. Custom Craft
17 Carpets, Inc. (1984) 159 Cal.App.3d 676, 684.) Moreover, a court has the specific statutory authority
18 to make any order that "may be necessary to prevent the use or employment by any person" of any
19 deceptive or unlawful conduct. (Bus. & Prof. Code §§ 17203, 17535.)

20 The facts proven at trial support a permanent injunction in this case, including:

- 21 • Mr. Nordeman acknowledged in testimony his negotiations with insurance carriers
22 regarding cost and scope to be paid on the claim, which the Court has found violate
23 the Public Insurance Adjuster Act, are a routine and an ongoing part of defendants'
24 standard business operations.
25

- 1 • The defendants used contracts which called for them to unlawfully negotiate with the
2 insurance carriers, as a standard business practice and continue to do so.
- 3 • Every one of the work-file exhibits in evidence showed the defendants engaged in
4 unlawful public insurance adjusting regarding their client's claims repeatedly
5 throughout the repair process.
- 6 • The defendants went so far as to have homeowners make a partial assignment of
7 benefits on their claims, which the Court finds was an attempt to circumvent the
8 Public Insurance Adjuster Act regulations, and in testimony Mr. Nordeman
9 acknowledged including assignment of benefits in their contracts is a routine part of
10 defendants' ongoing business practices.
- 11 • The defendants routinely failed to include cost and scope of work in contracts which
12 called for repairs to real property, in violation of Bus. & Prof. Code § 7159.

13 To stop the defendants' unlawful and deceptive conduct, all defendants are hereby
14 permanently enjoined and restrained from engaging in any of the following conduct or omissions:

- 15 A. Making or causing any untrue or misleading statement to be made to members of the
16 public in order to induce the purchase of defendants' services, in violation of Business
17 and Professions Code § 17500 et seq.;
- 18 B. Acting as an unlicensed public insurance adjuster by, for either direct or indirect
19 compensation, acting on behalf of or aiding in any manner, an insured in negotiating
20 for or effecting the settlement of a claim for loss or damage under any policy of
21 insurance covering real or personal property or advertising, soliciting business, or
22 holding himself out to the public as an adjuster of those claims, in violation of
23 Insurance Code § 15006, including, but not necessarily limited to negotiating or
24 advocating for a homeowner with an insurer;
- 25 C. Acting in violation of any provision of the Public Insurance Adjuster Act, Insurance

1 Code § 15000, et seq.;

2 D. Using a home improvement contract which fails to comply with all requirements of
3 Business and Professions Code § 7159, including but not limited to the following:

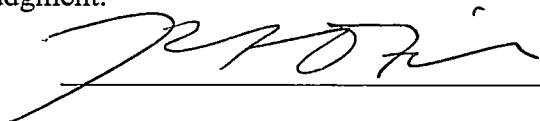
- 4 a. Using a home improvement contract that fails to include specific start and end
5 dates, in violation of Business and Professions Code § 7159(d)(10) and (11);
6 b. Using a home improvement contract that fails to include the specific contract
7 price of anticipated repairs, in dollars and cents, as estimated in good faith by
8 defendants, in violation of Business and Professions Code § 7159(d)(5);
9 c. Using a home improvement contract that fails to include a description of the
10 project and a description of the significant materials to be used, in violation of
11 Bus. & Prof. Code § 7159(d)(7);
12 d. Using a home improvement contract which contains statements of cost or
13 scope of repairs which are untrue or misleading, or which are not based on a
14 good faith estimate prepared by the defendants.

15 E. Seeking or accepting any assignment of the insurance benefits of any person, partial or
16 complete, for whom the defendants are making repairs to real property, or seeking to
17 enforce any assignment of benefits the defendants have already received from any
18 person with whom the defendants have contracted to make repairs to real property.

19 This order does not prohibit a defendant from providing information in response to a specific
20 inquiry from an insurer regarding cost, scope or materials related to a home improvement estimate or
21 contract, provided that such conduct does not otherwise result in a violation of law, statute or
22 regulation, or of the prohibitions found in this order.

23 The Plaintiff is ordered to prepare the Judgment.

24 Date: 12/2/2021



25 Hon. Robert D Foiles
JUDGE OF THE SUPERIOR COURT