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ATTORNEY GENERAL OF NEW JERSEY  
Division of Law  
124 Halsey Street - 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101

**FILED**

JUL 20 2009

**Division of Consumer Affairs**

By: Jah-Juin Ho  
Deputy Attorney General  
(973) 877-1280

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

In the Matter of

RMS SERVICES, INC. t/a  
ZAI EXPRESS,

Respondent.

Administrative Action

**CONSENT ORDER**

**WHEREAS** this matter having been opened by the New Jersey Division of Consumer Affairs, Office of Consumer Protection (“Division”), as an investigation to ascertain whether violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (“CFA”), and the Regulations Governing General Advertising Practices, N.J.A.C. 13:45A-9.2 et seq. (“Advertising Regulations”), have been or are being committed by RMS Services, Inc. t/a Zai Express with a main business address of 316 Morris Ave, Elizabeth, New Jersey (“Respondent”), as well as the owners, officers, directors, managers, employees, representatives, agents, subsidiaries, successors and assigns (hereinafter referred to as the “Investigation”);

**WHEREAS** Respondent denies having committed any violations of the CFA, and/or the Advertising Regulations;

**WHEREAS** the Division and Respondent (collectively, the “Parties”) having reached an amicable agreement resolving the issues in controversy and concluding this matter without the need for further action, and Respondent having voluntarily cooperated and consented to the entry of the within order (hereinafter “Consent Order”) without having admitted any fact or violation of law, and for good cause shown:

IT IS on this 20<sup>th</sup> day of June, 2009 **ORDERED** and **AGREED** as follows:

**1. EFFECTIVE DATE**

1.1 This Consent Order is effective on the date that it is filed with the Division (“Effective Date”).

**2. DEFINITIONS**

As used in this Consent Order, the following words or terms shall have the following meanings, which meanings shall apply wherever the words and terms appear in this Consent Order:

2.1 “Advertise,” “Advertisement” or “Advertising” shall mean any written, oral or electronic statement, illustration or depiction that is designed to create interest in the purchase of, impart information about the attributes of, publicize the availability of, or effect the sale or use of, goods or services, whether the statement appears in a brochure, newspaper, magazine, free-standing inset, bill board, circular, mailer, package insert, package label, product instructions, electronic mail, website, homepage, television, cable television, radio, commercial or any other medium.

2.2 “Attorney General” shall refer to the Attorney General of the State of New Jersey and the Office of the Attorney General of the State of New Jersey.

2.3 “Consumer” shall refer to any Person, who is offered Merchandise for Sale.

2.4 “Division” shall refer to the New Jersey Division of Consumer Affairs.

2.5 “Merchandise” shall be defined in accordance with N.J.S.A. 56:8-1(c).

2.6 “Person[s]” shall be defined in accordance with N.J.S.A. 56:8-1(d).

2.7 “Represent” shall mean to state or imply through claims, statements, questions, conduct, graphics, symbols, lettering, formats, devices, language, documents, messages or any other manner or means by which meaning might be conveyed.

2.8 “Sale” shall be defined in accordance with N.J.S.A. 56:8-1(e).

2.9 “State” shall refer to the State of New Jersey.

### **3. INJUNCTIVE RELIEF AND BUSINESS PRACTICES**

3.1 Respondent shall not engage in any unfair or deceptive acts or practices in the conduct of their business in the State and shall comply with all applicable State and/or Federal laws, rules and regulations as now constituted or as may hereafter be amended including, but not limited to, the CFA and the Advertising Regulations.

3.2 Respondent shall cease and desist from making false or misleading representations of facts concerning tax preparation services offered for sale in advertisements which imply that consumers may obtain tax refunds from the Internal Revenue Service (“IRS”) sooner than the time frames set forth in the “Refund Cycle Chart” published annually by the IRS. Such prohibited advertisements include, but are not limited to the statements, “Get Your Tax Money Now!” and “Obtenga su Reembolso Ahora!”

### **4. SETTLEMENT PAYMENT**

4.1 The Parties have agreed to a settlement of the Investigation in the amount of One Thousand and 00/100 Dollars (\$1,000.00) (“Settlement Payment”).

4.2 The Settlement Payment consists of a civil penalty of Seven Hundred Fifty and 00/100 Dollars (\$750.00), pursuant to N.J.S.A. 56:8-13, and investigative costs of Two Hundred and Fifty and 00/100 Dollars (\$250.00), pursuant to N.J.S.A. 56:8-11.

4.3 Respondent shall make the Settlement Payment in two (2) installments as follows:

- a. Five Hundred and 00/100 Dollars (\$500.00) shall be paid on or before July 1, 2009.
- b. The remaining Settlement Payment of Five Hundred and 00/100 Dollars (\$500.00) shall be paid on or before August 1, 2009.

4.4 The payments referenced in Section 4.3 shall be made by certified check, attorney trust account check, or other guaranteed funds made payable to the "New Jersey Division of Consumer Affairs" and forwarded to the undersigned:

Attention: Supervisor  
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

4.5 Upon making the payments referenced in Section 4.3, Respondent shall immediately be fully divested of any interest in, or ownership of, the moneys paid. All interest in the moneys, and any subsequent interest or income derived therefrom, shall inure entirely to the benefit of the Division pursuant to the terms herein.

## **5. FORBEARANCE ON EXECUTION AND DEFAULT**

5.1 In the event that Respondent fails to make any of the payments referenced in Section 4.3 within fifteen (15) days of their due date, all unpaid amounts due and payable under this Consent Order shall immediately be accelerated and due and payable without the need for notice and

presentment, with interest calculated in accordance with R. 4:42-11 from the date of default, and with the Division's cost of collection. In any notice provided by this Section, the Division shall provide Respondent with a fifteen (15) day period within which to cure any default. In addition to the relief provided for in this Section, this default shall also entitle the Division to make an application to the Court for an order directing compliance and any other relief in aid of litigant's rights including an award of attorneys' fees.

5.2 Respondent agrees to pay all reasonable attorneys' fees and costs including, but not limited to, Court costs, associated with any successful collection efforts by the Division pursuant to this Consent Order.

#### **6. PENALTIES FOR FAILURE TO COMPLY**

6.1 The Attorney General (or designated representative) shall have the authority to enforce the injunctive provisions of this Consent Order or to seek sanctions for violations hereof or both.

6.2 The Parties agree that any future violations of the injunctive provisions of this Consent Order, the CFA, the Administrative Rules and/or the Advertising Regulations shall constitute a violation under N.J.S.A. 56:8-18 and/or a second or succeeding violation under N.J.S.A. 56:8-13 and that Respondent may be liable for enhanced civil penalties.

#### **7. COMPLIANCE WITH ALL LAWS**

- 7.1 Except as provided in this Consent Order, no provision herein shall be construed as:
- a. Relieving Respondent of its obligation to comply with all State and Federal laws, regulations or rules, as now constituted or as may hereafter be amended, or as granting permission to engage in any acts or practices prohibited by any such laws, regulations or rules; or

- b. Limiting or expanding any right the Division may otherwise have to obtain information, documents or testimony from Respondent pursuant to any State or Federal law, regulation or rule, as now constituted or as may hereafter be amended, or limiting or expanding any right Respondent may otherwise have pursuant to any State or Federal law, regulation or rule, to oppose any process employed by the Division to obtain such information, documents or testimony.

**8. NOTICES UNDER THIS CONSENT ORDER**

8.1 Except as otherwise provided herein, any notices or other documents required to be sent to the Division or Respondent pursuant to this Consent Order shall be sent by United States mail, Certified Mail Return Receipt Requested, or other nationally recognized courier service that provides for tracking services and identification of the Person signing for the documents. The notices and/or documents shall be sent to the following addresses:

For the Division:

Bureau Chief, Office of Consumer Protection  
Division of Consumer Affairs  
State of New Jersey  
Office of the Attorney General  
Department of Law and Public Safety  
124 Halsey Street - 7<sup>TH</sup> Floor  
P.O. Box 45028  
Newark, New Jersey 07101

For the Respondent:

RMS Services, Inc.  
316 Morris Ave  
Elizabeth, New Jersey 07208

## **9. GENERAL PROVISIONS**

9.1 This Consent Order is entered into by the Parties as their own free and voluntary act and with full knowledge and understanding of the obligations and duties imposed by this Consent Order.

9.2 This Consent Order resolves all claims and causes of action against Respondent for violations of the CFA and the regulations promulgated pursuant thereto as well as the Advertising Regulations which were known by the Division's Office of Consumer Protection through January 30, 2009.

9.3 Respondent represents and warrants that it has fully read this Consent Order, understands the legal consequences involved in signing the Consent Order, and that there are no other representations or agreements not stated in writing herein.

9.4 Respondent represents and warrants that it has been advised by the Division to seek legal counsel to review this Consent Order.

9.5 This Consent Order shall be governed by, and construed and enforced in accordance with, the laws of the State.

9.6 The Parties have negotiated, jointly drafted and fully reviewed the terms of this Consent Order and the rule that uncertainty or ambiguity is to be construed against the drafter shall not apply to the construction or interpretation of this Consent Order.

9.7 This Consent Order contains the entire agreement among the Parties. Except as otherwise provided herein, this Consent Order shall be modified only by a written instrument signed by or on behalf of the Parties.

9.8 Except as otherwise explicitly provided in this Consent Order, nothing herein shall be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State.

9.9 If any portion of this Consent Order is held invalid or unenforceable by operation of law, the remaining terms of this Consent Order shall not be affected.

9.10 This Consent Order shall be binding upon Respondent as well as their principals, officers, directors, agents, employees, successors and assigns, and any entity or device through which it may now or hereafter act, as well as any persons who have authority to control or who, in fact, control and direct their business.

9.11 This Consent Order shall be binding upon the Parties and their successors in interest. In no event shall assignment of any right, power or authority under this Consent Order avoid compliance with this Consent Order.

9.12 This Consent Order is entered into by the Parties for settlement purposes only. Neither the fact of, nor any provision contained in this Consent Order shall be construed as: (a) an approval, sanction or authorization by the Division or any other governmental unit of the State of any act or practice of Respondent; or (b) an admission by Respondent that any of their acts or practices described in or prohibited by this Consent Order are unfair or deceptive or violate the CFA and/or the Advertising Regulations. Neither the existence of, nor the terms of this Consent Order shall be deemed to constitute evidence or precedent of any kind except in: (a) an action or proceeding by one of the Parties to enforce, rescind or otherwise implement any or all of the terms herein.

9.13 This Consent Order is a public document subject to the New Jersey Open Public Records Act.

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


9.15 Unless otherwise prohibited by law, any signatures by the Parties required for filing of this Consent Order may be executed in counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Consent Order.

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY

By:   
\_\_\_\_\_  
DAVID SZUCHMAN, DIRECTOR  
DIVISION OF CONSUMER AFFAIRS

**THE UNDERSIGNED HAS READ THIS CONSENT ORDER, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS.**

RMS SERVICES, INC. t/a ZAI EXPRESS

By:   
\_\_\_\_\_  
316 Morris Ave  
Elizabeth, New Jersey 07208

Dated: 6-28-09, 2009