

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO.

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In the matter of
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MALONEY PROPERTIES, INC.
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12-1127 4

2012 MAR 21 AM 11:59
MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE

SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE

ASSURANCE OF DISCONTINUANCE PURSUANT TO G.L. c. 93A, § 5

I. Introduction

Pursuant to the provisions of Massachusetts General Laws c. 93A, the Commonwealth of Massachusetts, by its Attorney General Martha Coakley, conducted an investigation into the acts and practices of Maloney Properties, Inc. ("MPI"), a Massachusetts corporation headquartered in Wellesley, Massachusetts, in protecting the personal information, as that term is defined in G.L. c. 93H, § 1, of its customers.

Based on that investigation, the Attorney General has reason to believe that MPI has violated the Massachusetts Consumer Protection Act, G.L. c. 93A, § 2 by violating the Massachusetts Standards for the Protection of Personal Information of Residents of the Commonwealth, 201 CMR 17.00 *et seq.*, adopted pursuant to G.L. c. 93H, § 2(a), the Massachusetts Security Breach Notification Law. The parties conferred in good faith regarding the Commonwealth's concerns and MPI's policies and procedures. As a result, the parties have agreed to resolve the allegations through an Assurance of Discontinuance.

II. Allegations

1. The Commonwealth alleges that MPI violated G.L. c. 93H and its attendant regulations, 201 CMR 17.00 *et seq.*, and thereby the Massachusetts Consumer Protection Act, G.L. c. 93A, § 2 by: (a) maintaining personal information on an unencrypted laptop; and (b) failing to follow its own Written Information Security Program, as required by 201 CMR 17.03. These violations occurred when an MPI employee knowingly stored unencrypted personal information on an MPI-owned laptop and then left that laptop unsupervised overnight in a personal automobile, resulting in the potential disclosure of the personal information of up to 621 Massachusetts residents when that laptop was stolen from the automobile on or about October 15, 2011. After investigation, MPI has no information that indicates that any consumer's personal information has been acquired or used by an unauthorized person or for an unauthorized purpose.

2. Without admitting to the Attorney General's allegations or to any violations of law, MPI has voluntarily and knowingly entered into this Assurance of Discontinuance. The Attorney General agrees to enter into this Assurance of Discontinuance in lieu of commencing an enforcement action pursuant to G.L. c. 93A, § 4. This Assurance of Discontinuance resolves all existing claims the Attorney General may have against MPI stemming from the alleged violations of G.L. c. 93H, 201 CMR 17.00 *et seq.*, and G.L. c. 93A, as described in this Assurance.

3. Nothing in this Assurance releases MPI from claims in the event MPI consumers are harmed as a result of the theft of MPI's laptop.

III. Assurances

4. MPI will comply with the Massachusetts Standards for the Protection of Personal Information of Residents of the Commonwealth, 201 CMR 17.00 *et seq.*, in all respects,

including, without limitation, encrypting, to the extent technically feasible, all personal information stored on laptops or other portable devices, as required by 201 CMR 17.04.

5. MPI will comply with the provisions of its own Written Information Security Program (“WISP”) in all respects, including by: (a) ensuring that MPI owned laptops and portable devices are kept in a secure location at all times, including when used outside of MPI-owned premises or properties; (b) ensuring that personal information is not unnecessarily maintained by MPI on laptops or other portable devices for longer than is dictated by business necessity; (c) ensuring that personal information that must be maintained on MPI laptops or other portable devices is and remains encrypted; (d) effectively training the members of its workforce, on at least an annual basis, on the policies and procedures with respect to maintaining the security of personal information, including the proper encryption of personal information kept on portable devices, and the secure storage of those portable devices; and (e) performing on at least an annual basis an audit of its compliance with its WISP.

6. MPI will, within fourteen (14) days after completing each annual audit described in paragraph III.5(e) above for calendar years 2012 and 2013, submit the results of said audit to the Attorney General’s Office.

7.

IV. Penalties

8. MPI hereby agrees to pay a civil penalty of \$15,000 prior to the filing of this Assurance of Discontinuance, by certified check made payable to the Commonwealth of Massachusetts, delivered to Sara Cable, Assistant Attorney General, Consumer Protection Division, One Ashburton Place, Boston, Massachusetts 02108.

V. Miscellaneous Provisions

9. In the event that MPI's loss of its laptop on or about October 15, 2011 results in actual harm to MPI customers, MPI and the Attorney General's Office will reopen discussions in order to determine appropriate restitution to affected MPI customers.

10. This Assurance of Discontinuance shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts.

11. The Superior Court shall retain jurisdiction over this Assurance of Discontinuance.

12. This Assurance of Discontinuance shall not relieve MPI of any obligations to comply with all applicable federal, state, and local laws and regulations.

13. Pursuant to G.L. c. 93A, § 5, violation of the Assurance of Discontinuance shall constitute prima facie evidence of a violation of G.L. c. 93A, § 2(a), in any action or proceeding commenced by the Commonwealth.

14. MPI, promptly after execution of this Assurance, shall inform in writing all of MPI's officers and directors of the terms of this Assurance.


15. This Assurance contains the complete agreement between the parties. No promises, representations, or warranties other than those set forth in this Assurance of Discontinuance have been made by either party. This Assurance supersedes all prior communications, discussions, or understandings, if any, of the parties, whether written or oral. This Assurance can be modified or supplemented only by written memorandum signed by the parties.

16. MPI is represented by and has consulted with counsel, Denise I. Murphy, of Rubin and Rudman, LLP, in connection with the decision to enter into this Assurance.

17. The undersigned, Janet Frazier, represents that she is duly authorized to execute this Assurance of Discontinuance on behalf of MPI and to bind MPI to all of its provisions, and that on behalf of MPI she voluntarily enters into this Assurance of Discontinuance.

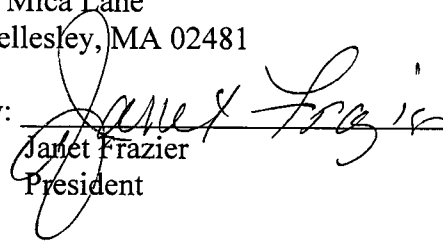
COMMONWEALTH OF MASSACHUSETTS

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Dated: 3-21-12

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By: 
Janet Frazier
President

Dated: 3-13-12