

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CERTAINTEED CORPORATION,

Plaintiff,

v.

SEATTLE ROOF BROKERS, et al.,

Defendants.

CASE NO. C09-563RAJ

ORDER

The court conducted an evidentiary hearing today to determine whether Defendant James Garcia was in contempt of the injunction the court entered on June 28, 2010. The court ruled at the conclusion of the hearing that Plaintiff CertainTeed Corporation (“CertainTeed”) had not met its burden to prove that Mr. Garcia had been in the roofing business at any time after August 8, 2010. For the reasons stated in the court’s February 14, 2011 order, this means that Mr. Garcia is not in contempt of court.

The court directs the clerk to TERMINATE the motion calendar (Dkt. # 97) that the court created to address the remaining issues in this case.

The court directs the clerk to enter judgment for CertainTeed. That judgment will consist of an acknowledgment that CertainTeed prevailed on its Lanham Act and Washington Consumer Protection Act claims to the extent reflected in the court’s June 28, 2010 order and its July 23, 2010 order. All other claims that CertainTeed brought in this suit have been voluntarily dismissed without prejudice

1 The judgment will also consist of a permanent injunction in substantially the same
2 form as the one the court entered on June 28, 2010. The court will make several
3 modifications, and the permanent injunction it enters today shall supersede the prior
4 injunction.

5 First, the court will explicitly indicate that the phrase “in any advertising
6 promoting [Mr. Garcia’s] roofing business” as used in the injunction is limited to
7 commercial advertising as described in the court’s February 14, 2011 order.

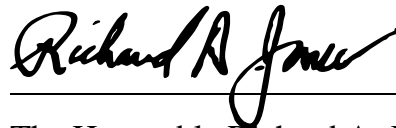
8 Second, the court will eliminate the requirement that Mr. Garcia submit the
9 content of his website for prior approval from the court. If Mr. Garcia remains out of the
10 roofing business, there would be no need in any event for him to submit any website
11 content for approval. Given that the parties have substantial disputes about what being
12 “in business” means, the court will leave it to CertainTeed to assess whether Mr. Garcia
13 has gone back into the roofing business, and whether website material Mr. Garcia
14 publishes in conjunction with his business activity is in violation of the permanent
15 injunction. CertainTeed may file a motion for contempt of the injunction, and may
16 include in that motion a request that the court order Mr. Garcia to take the offending
17 website content offline.

18 The court also grants CertainTeed’s request that the court enforce the protective
19 order entered on December 18, 2009. That order requires the parties to return or destroy
20 any documents produced during discovery that the producing party marked as
21 “CONFIDENTIAL.” The court orders both parties to *return* any documents in their
22 possession that are subject to this order, including any photocopies or duplicates
23 (including electronic duplicates), and to do so no later than March 25, 2011. The party to
24 whom the documents are to be returned may agree, at its sole option, to permit
25 destruction of the documents as an alternative to their return. In any event, no party may
26 retain any “CONFIDENTIAL” document or any duplicate thereof beyond March 25,
27 2011.

1 The protective order does not address what is to be done about information
2 exchanged during discovery. The court orders that no party may reveal to anyone any
3 information that they learned *solely* from a document or other material marked
4 “CONFIDENTIAL.”

5 Nothing in this order shall be construed to prevent either party from referring to
6 any document that was filed publicly (*i.e.*, not under seal) in this litigation.

7 DATED this 11th day of March, 2011.

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10
11 The Honorable Richard A. Jones
United States District Judge