
DIRECT SALES PROHIBITION

IN THE MATTER OF

Section 156 of *THE BUSINESS PRACTICES AND CONSUMER PROTECTION ACT, SBC 2004, c. 2*

Respondent: Simply Green Home Services (BC) Inc.

Adjudicator: Robert Penkala

Date of Order: June 15, 2020

On June 22, 2020, a clerical error was corrected as to the date of decision stated below. In all respects other than the correction and notice of it, this Prohibition is unvaried.

In a decision of the director dated June 9, 2020 the following contraventions of the *Business Practices and Consumer Protection Act* were found to have been committed by the respondent:

1. Failing to provide within 15 days a refund demanded in relation to a valid statutory cancellation of a direct sales contract by a consumer, contrary to section 27 of the Act.
2. Breach of the terms of a compliance order with respect to prohibition of specified deceptive acts in consumer transactions, in violation of section 189 (5)(c)(ii) of the Act.
3. Engaging in deceptive and misleading acts in consumer transactions, counter to the prohibition stated in section 5 of the Act.

Further, after reviewing a Report prepared in relation to several consumer complaints (case file #30128), and considering other previously concluded enforcement actions, the director has reasonable grounds to believe that, based on the past conduct of the respondent, it is contrary to the public interest for the respondent to carry on the business of a direct seller in British Columbia, subject to the requirements below.

REQUIREMENTS OF THE PROHIBITION

1. The respondent must not conduct or attempt to conduct any direct sales transactions (taking place in a location other than the supplier's place of business, except as exempted by the Act or its regulations) for a period of **12 months** from the effective date of this prohibition.
2. After the above period of suspension, the respondent shall not resume direct sales in British Columbia except on the condition that it has satisfied Consumer Protection BC that,
 - a. its direct sales contracts comply in form and content with the Act's requirements for,
 - i. *detailed descriptions* of goods and services; and,
 - ii. *total costs to consumers, applicable taxes, and total cost of credit*;
 - b. it assumes responsibility with respect to the prevention of misrepresentations and deceptive sales practices, for training and supervising any employees, agents, or persons entering direct sales contracts on its behalf; and,
 - i. all training and sales materials must be provided to and approved by Consumer Protection BC before being used;
 - ii. the identities of any agents hired or retained by Simply Green to conduct consumer sales must be disclosed to Consumer Protection BC, and Consumer Protection BC may refuse to remove this prohibition in the absence of such disclosure or if it deems the removal of the prohibition to be contrary to the public interest;
 - iii. internal policies must be developed that expressly prohibit any conduct by employees, agents, or other persons dealing with consumers on behalf of the respondent representing the respondent's endorsement by or affiliation with utilities-providers or official bodies (including reference to rebate programs, unless factually based); and,
 - iv. such policies must be provided to Consumer Protection BC, which may refuse to remove this prohibition if the policies are not provided or are deemed inadequate;
 - v. Consumer Protection BC is satisfied that the respondent will disclose clearly the intended terms of lease agreement for the supply of goods (equipment or appliances) and services so as to not mislead consumers about costs, obligations, and duration of the agreements, including options for outright purchase, "buyouts", "rent to own", or other similar and materially relevant terms.

RECONSIDERATION

Under section 181 of the Act, the respondent may apply for reconsideration of this Prohibition within 30 days of receiving it. Application requires payment of a **\$252 fee** (refunded if the reconsideration results in cancellation of the original determination). The director may extend time for the request if exceptional circumstances exist. The application must be in writing and identify the error the applicant believes has been made or other grounds for reconsideration.

The director may vary or cancel a Direct Sales Prohibition only if new evidence has become available, that:

- is substantial, and material to the Order; and,
- did not exist at the time of the original decision or did exist but could not have been discovered at that time through the exercise of reasonable diligence.

A decision on reconsideration is final and may only be judicially reviewed.

Information about the reconsideration process can be found at www.consumerprotectionbc.ca

A request for reconsideration must be addressed to:

Consumer Protection BC
Attn: Shahid Noorani, Vice President Regulatory Services
200 – 4946 Canada Way, Burnaby, BC V5G 4H7
shahid.noorani@consumerprotectionbc.ca

SUMMARY

The respondent is required to comply with this Order and, if requested by this office, provide proof of compliance. Failure to comply with this Order may result in the imposition of an administrative penalty of up to \$5,000 on an individual and up to \$50,000 on a corporation.

This Order may be filed in British Columbia Supreme Court and once filed is deemed an Order of the Court and enforceable as such.



Robert Penkala, Mgr., Enforcement Hearings

June 9, 2020

Date

Method of Service: by email