

FILE COPY

Kevin V. Olsen, Director
Utah Division of Consumer Protection
160 East 300 South, Second Floor
PO Box 146704
Salt Lake City, UT 84114-6704
PH. (801) 530-6601/FAX (801) 530-6001

**BEFORE THE DIVISION OF CONSUMER PROTECTION
OF THE STATE OF UTAH**

IN THE MATTER OF:

**PINNACLE SECURITY GROUP LLC,
PINNACLE SECURITY HOLDINGS
LLC, and JOHN R BARLOW, JARED
CHAPPELL, KELLY WALKER, and
STEVE ZOLMAN individually and as
officers or directors of the above
companies.**

Respondents.

DCP Legal File No. 67981

ADMINISTRATIVE CITATION

PURSUANT TO THE AUTHORITY granted by UTAH CODE §13-2-6(3), as amended, which empowers the Division of Consumer Protection to issue a citation upon any person reasonably believed to be engaged in the violation of any statute listed in UTAH CODE §13-2-1, as amended, it appears, upon information and belief, that you are in violation of the *Consumer Sales Practices Act*, UTAH CODE §13-11-1 *et seq.* In particular, the Division of Consumer Protection alleges:

1. The Respondent on several occasions engaged in misrepresentations of the uses and benefits of the transaction that their consumers were entering in to when they were solicited

to purchase an alarm security system. Sales representatives of the Respondent while out making direct solicitations of their alarm system misrepresented the facts of the transaction by representing that the consumer could cancel the contract at anytime or that they could easily cancel their contract with their existing alarm company by simply sending a cancellation notice when they knew this was not the case. They also misrepresented the facts of the transaction by failing to provide pertinent and critical information to the consumer that would have allowed them to make a more informed decision about the transaction that they were entering in to. The Respondents repeatedly made misrepresentations about their affiliation with other alarm companies and about the basic rights of entering into a transaction with the Respondents for an alarm system in order to simply make a sale and entrap the consumer in a binding contract.

2. The Respondents or their representatives on several occasions while engaging in direct solicitation sales of their alarm systems have exhibited a pattern of malicious and misrepresentative behavior which includes the following. The sales representatives approached consumers that had existing alarm systems with other companies not affiliated with the Respondents and represented that they were with those particular companies and that they were there to upgrade their existing systems, that they had taken over those companies, or that those companies had gone out of business. The sales representatives then had the consumer sign a new contract under the pretext that they were signing with their existing alarm companies and were just signing a new contract because they were getting an upgraded system, or because they needed to sign a new contract because the former company had been taken over and as such paperwork needed to be updated. The reality is that the consumer was signing a new contract with the Respondent which made it so that they had a contract with their already existing alarm company as well as a new contract with the Respondent. The consumer would then discover that they were being charged by both alarm companies and had contracts with two different alarm companies.

3. The above actions are in violation of the Utah Consumer Sales Practices Act §13-11-4 Deceptive Act or Practice by Supplier:

(2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier knowingly or intentionally:

(i) indicates that the supplier has a sponsorship, approval, or affiliation the supplier does not have;

4. Representatives of the Respondent repeatedly offered services or stated that they were there selling alarm services and that those services were available because they were working with the consumers existing company, they had taken over the consumers existing company or the consumers existing company had gone out of business.

5. The above actions are in violation of the Utah Consumer Sales Practices Act §13-11-4 Deceptive Act or Practice by Supplier:

(2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier knowingly or intentionally:

(d) indicates that the subject of a consumer transaction is available to the consumer for a reason that does not exist;

6. The Respondent's sales representatives while conducting direct solicitations also approached consumers and in their initial contact with the consumers failed to clearly and expressly identify themselves, the product they were selling and the company they represented. The sales representatives repeatedly played off of the assumptions of the consumers that they were with their already existing alarm company or blatantly represented that they were with their existing alarm company. This act was deceptive in nature as the consumers believed they were

speaking with representatives from their existing alarm companies when in fact they were not.

7. The above actions are also in violation of the Utah Consumer Sales Practices Act Rules, R 152-11-9 Direct Solicitations:

(A) It shall be a deceptive act or practice in connection with a consumer transaction involving any direct solicitation sale for a supplier to do any of the following:

(1) Solicit a sale without clearly, affirmatively, and expressly revealing at the time the seller initially contacts the consumer or prospective consumer, and before making any other statements or asking any questions, except for a greeting: the name of the seller, the name or trade name of the company, corporation or partnership the seller represents, and stating in general terms the nature of the consumer commodities the seller wishes to show or demonstrate.

8. The alleged actions are charged as one (1) count of violation of each of the above statutes and rule for each of the consumers listed in addendum A, for a total of fifteen (15) counts, with a potential maximum fine of \$37,500.00 (\$2,500.00 per count).

9. Sales representatives of the Respondent represented to consumers that they had certain rights of cancellation or periods of time to try out and then cancel their transaction if they were not satisfied with the product or services. When the consumers attempted to exercise those rights they were told that they could not as they did not exist. Consumers were also told that they had other rights or would be given certain assurances of responsibility to the contract when that was in fact not true.

10. The above actions are in violation of the Utah Consumer Sales Practices Act §13-11-4 Deceptive Act or Practice by Supplier:

(2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier knowingly or intentionally:

(j)(i) indicates that a consumer transaction involves or does not involve a warranty, a disclaimer of warranties particular warranty term, or other rights, remedies, or obligations, if the representation is false; or

(ii) fails to honor a warranty or a particular warranty term;

11. The alleged actions are charged as one (1) count of violation of the above statutes for each of the consumers listed in addendum B, for a total of 5 counts, with a potential maximum fine of \$12,500.00 (\$2,500.00 per count).

12. Representatives of the Respondent in general used unfair and deceptive practices by representing facts that were not true or misleading in order to secure the sale of alarm systems. The representatives told some consumers that they would be entering into an agreement for security service for a period of time that was not correct. For example a consumer was told they had a month to month contract and could cancel anytime. When the consumer attempted to cancel they were then informed that they had three or more year contract. The consumer did not sign the contract nor agree to the terms of the contract. The contract was signed by another individual as the signature on the contract does not match that of the consumer.

13. The sales representatives represented that existing alarm systems were out of date and therefore needed to be replaced. They represented that the consumer could simply send in a letter to their existing alarm company and they could free themselves of their existing contract when the sales rep knew that this was not true.

14. Finally the sales representatives used deceptive tactics such as telling consumers that there had been recent burglaries in the neighborhood. This tactic was simply a scare tactic used by the sales representative in order to play upon common insecurities of consumers in order to induce them to enter into security alarm contracts. From the beginning the sales

representatives knew that what they were saying was untrue.

15. The above actions are in violation of the Utah Consumer Sales Practices Act §13-11-4 Deceptive Act or Practice by Supplier:

(2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier knowingly or intentionally: it is deceptive to alter documents or represent that authorizations have been given when they have not, use deceptive tactics and make untrue statements in order to secure the sale of merchandise to consumers.

16. The alleged actions are charged as one (1) count of violation of the above statutes for each of the consumers listed in addendum C, for a total of 3 counts, with a potential maximum fine of \$7,500.00 (\$2,500.00 per count).

17. A sales representative of the Respondents made untrue representations by stating that existing alarm system located in the home of Betty and Scotty Nelson (hereinafter the "Nelsons") of 485 44th Avenue SE Salem, OR 97317, needed to be replaced when it in fact did not. The representation made to the Nelsons that their system needed to be replaced when it did not was untrue and was used in order to secure a new contract for alarm services with the Respondents.

18. The above actions are in violation of the Utah Consumer Sales Practices Act §13-11-4 Deceptive Act or Practice by Supplier:

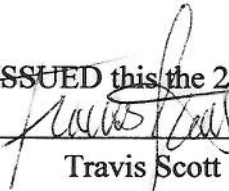
(2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier knowingly or intentionally:

(g) indicates that replacement or repair is needed, if it is not;

19. The alleged actions are charged as one (1) count of violation of the above statute, for a total of 1 count, with a potential maximum fine of \$2,500.00 (\$2,500.00 per count).

20. The above alleged actions are charged as a TOTAL of twenty four (24) counts of violation of the above statutes, with a potential maximum fine of \$60,000.00 (\$2,500.00 per count).

THIS CITATION ISSUED this the 25th day of August 2009



Travis Scott
Investigator

Utah Division of Consumer Protection

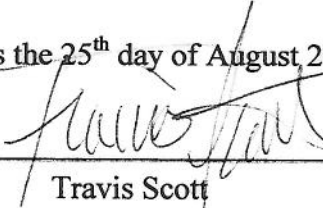
CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that the undersigned duly mailed via regular and certified mail, properly addressed and postage paid, a true and exact copy of the above and foregoing Administrative Citation to the parties listed below:

By regular and certified mail to:

PINNACLE SECURITY GROUP LLC
ATTN: SARAH JANE JENNINGS OR LANCE LEHNOF
1290 SANDHILL ROAD
OREM, UT 84058

Date this the 25th day of August 2009



Travis Scott
Investigator

Utah Division of Consumer Protection

IMPORTANT NOTICE - READ CAREFULLY

This citation may be contested by filing a request for a hearing, in writing, within ten (10) days from receipt of this citation. Such hearing shall be conducted as an informal hearing under Title 63G, Chapter 4, Administrative Procedures Act. A citation which is not so contested becomes the final order of the Division. In addition to any fines which might be levied, a cease and desist order shall be entered against you. An intentional violation of a final cease and desist order is a third degree felony pursuant to UTAH CODE ANNOTATED §13-2-6(2), as amended. If you desire a hearing on this citation you may mail your request to:

Kevin V. Olsen, Director
Utah Division of Consumer Protection
PO Box 146704
Salt Lake City, UT 84114-6704

Please be advised that all inquiries, correspondence, or other contacts concerning this citation, with the exception of any written request for hearing as set out above, should be directed to the below named Division employee, designated by the Director of the Division of Consumer Protection pursuant to UTAH CODE §13-2-6(3)(a)(iv) and §63-46b-3(2)(a)(i)(1953), as amended:

Travis Scott - Investigator
Utah Division of Consumer Protection
160 East 300 South
PO Box 146704
Salt Lake City, UT 84114-6704
Telephone: (801) 530-6601

Addendum A

Jennie & John Sherratt, 459 South 500 East St. George, UT 84770
Bernice Carmichael, 15555 East 40th Avenue #63 Denver, CO 80239
Shirley Anderson, 605 East 3470 South St. George, UT 84790
Sue Grounds, 6840 East Mexico Avenue Denver, CO 80224
Dorothy Jones, 3525 East 30th Avenue Denver, CO 80205

Addendum B

Lindsay Calzascia, 630 Sparrowhawk Drive Vacaville, CA 95687
Linda Schultz, 2096 West 5750 South Roy, UT 84067
Audrey Hall, 540 Kipp Street Teaneck, NJ 07666
James Morgan, 42622 Drennon Ct. Temecula, CA 92592
Patricia Johnston, 871 Sherwood Drive Elyria, OH 44035

Addendum C

James Morgan, 42622 Drebbib Ct. Temecula, CA 92592
Linda Schultz, 2096 West 5750 South Roy, UT 84067
Betty & Scotty Nelson, 485 44th Avenue SE Salem, OR 97317