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SUPERIOR COURT OF KING COUNTY  
STATE OF WASHINGTON

WSC REAL ESTATE SERVICES  
COMPANY, a Washington corporation,

Plaintiff,

v.

ELDON J. MAXWELL, II, an individual a/k/a  
JOE MAXWELL, a/k/a JOSEPH  
MAXWELL, and JANE DOE MAXWELL,  
husband and wife and the marital community  
thereof,

Defendants.

ELDON J. MAXWELL, II, an individual a/k/a  
JOE MAXWELL, a/k/a JOSEPH  
MAXWELL,

Counterclaimant,

v.

WSC REAL ESTATE SERVICES  
COMPANY, a Washington corporation,

Counterdefendant.

Case No. 10-2-36192-8 SEA

DEFENDANTS ELDON J. MAXWELL, II  
AND JANE DOE MAXWELL'S  
ANSWER TO COMPLAINT AND  
COUNTERCLAIMS

I. ANSWER

COME NOW Defendants Eldon J. Maxwell II and Jane Doe Maxwell and answer the  
allegations of Plaintiff's Verified Complaint as follows:

1           1.     Defendants lack sufficient information as to the allegations in Paragraph 1 and  
2  
3 therefore deny these allegations.

4  
5           2.     Defendants admit the allegations in Paragraph 2.

6  
7           3.     Defendants admit Jane Doe Maxwell is a married woman residing in Pierce County,  
8  
9 Washington. Defendants deny every other allegation contained in Paragraph 3.

10  
11          4.     Answering the allegations in Paragraph 4 of the Complaint, Defendants allege that  
12  
13 the documents attached as Exhibits 1 and 2 speak for themselves and deny all other allegations in  
14  
15 Paragraph 4.

16  
17          5.     Answering the allegations in Paragraph 5 of the Complaint, Defendants allege that  
18  
19 the document attached as Exhibit 1 speaks for itself and appears to have the signature of Defendant  
20  
21 Eldon J. Maxwell, II. Defendants deny all other allegations in Paragraph 5.

22  
23          6.     Answering the allegations in Paragraph 6 of the Complaint, Defendants deny the  
24  
25 allegations contained therein.

26  
27          7.     Answering the allegations in Paragraph 7 of the Complaint, Defendants allege that  
28  
29 the document attached as Exhibit 2 speaks for itself and deny all other allegations in Paragraph 7.

30  
31          8.     Defendants deny the allegations in Paragraph 8.

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33          9.     Answering the allegations in Paragraph 9 of the Complaint, Defendants allege that  
34  
35 the document referred to speaks for itself and deny all other allegations in Paragraph 9.

36  
37          10.    Answering the allegations in Paragraph 10 of the Complaint, Defendants allege that  
38  
39 the document referred to speaks for itself and deny all other allegations in Paragraph 10.

40  
41          11.    Defendants deny the allegations in Paragraph 11.

42  
43          12.    Defendants deny the allegations in Paragraph 12.





1           6.       The WPCR Operating Agreement contains a provision granting Jacobi a special veto  
2  
3 power which among other things, states that the company shall conduct its business and manage its  
4  
5 affairs in accordance with the directions of Jacobi and all management decisions are subject to  
6  
7 Jacobi's review.  
8

9           7.       Maxwell was the manager of WPCR and was responsible for the day-to-day  
10  
11 operations of WPCR. As a result of Maxwell's efforts in operating WPCR, WPCR became a very  
12  
13 successful WSC franchise and was the largest WSC franchise in the State of Washington.  
14

15           8.       Maxwell and another WPCR member, Michael Ratcliffe ("Ratcliffe"), met with  
16  
17 WSC's representatives to discuss opening another WSC office in Tacoma. WSC and Jacobi told  
18  
19 Maxwell and Ratcliffe they must buyout PCP's membership interest in WPCR before WSC would  
20  
21 allow them to open a WSC office in Tacoma.  
22

23           9.       WSC loaned WPCR approximately \$550,000 to purchase PCP's interest in WPCR  
24  
25 with the condition that WPCR would immediately obtain financing to repay the WSC loan.  
26

27           10.      In late 2005, the purchase of PCP's interest in WPCR was completed and WPCR  
28  
29 borrowed approximately \$550,000 from U.S. Bank to repay WSC.  
30

31           11.      In 2006, WPCR opened another WSC office in downtown Tacoma as agreed with  
32  
33 WSC. WPCR incurred substantial start-up expenses for opening the Tacoma office.  
34

35           12.      Before the buyout of PCP and the opening of the Tacoma office, WPCR had no  
36  
37 long-term debt and was very profitable.  
38

39           13.      In early 2006, WSC and Jacobi decided to open another WSC office in the territory  
40  
41 in which WPCR was operating, despite the objections of Maxwell. As a result of the opening of  
42  
43 this new WSC office, WPCR lost a significant number of its real estate agents and revenue that  
44  
45 transferred to the new office in Graham, Washington.

1           14.     As a direct result of these actions taken by WSC and Jacobi, WPCR was left with a  
2  
3 large debt burden and overhead, and WPCR's revenue was significantly reduced.  
4

5           15.     Maxwell made repeated verbal and written complaints to WSC and Jacobi about the  
6  
7 decision to open the office in Graham. Maxwell filed a formal written complaint with WSC's  
8  
9 internal dispute resolution board. WSC and Jacobi did not take any action in response to Maxwell's  
10  
11 complaints.  
12

13           16.     After WPCR opened the Tacoma office as agreed, Jacobi and WSC agreed to the  
14  
15 opening of another WSC franchise located only blocks away from WPCR's Tacoma office. This  
16  
17 was done without the knowledge or consent of Maxwell.  
18

19           17.     WSC and Jacobi's actions in directing Maxwell and Ratcliffe to buy PCP's interest  
20  
21 in WPCR and borrow over \$550,000 to pay for PCP's interest, opening the WSC office in Graham,  
22  
23 and allowing another WSC franchise to open in the same location as WPCR's Tacoma office,  
24  
25 severely damaged WPCR's business and WPCR's financial condition.  
26

27           18.     Despite the impairment to WPCR's business and financial condition, WSC  
28  
29 demanded WPCR pay it license fees in a timely manner or its franchise would be terminated.  
30

31           19.     The WPCR Operating Agreement requires all members to personally guarantee any  
32  
33 loan or other obligation of the company that another member is required to personally guarantee.  
34

35           20.     Maxwell and Ratcliffe were required to sign personal guarantees of WPCR's  
36  
37 obligation to Bank of America. WSC demanded that Maxwell and Ratcliffe sign personal  
38  
39 guarantees of license fees allegedly due WSC, including the Note and Guarantee on which WSC is  
40  
41 seeking to collect in this action.  
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1           21.     Despite Jacobi's contractual obligation to personally guarantee WPCR obligations to  
2  
3 Bank of America and WSC, and demands by members to do so, WSC did not seek personal  
4  
5 guarantees from Jacobi and Jacobi failed to sign personal guarantees of these WPCR's obligations.  
6

7           22.     On September 14, 2010, Maxwell heard from a real estate agent working at WPCR  
8  
9 that the agent had received an email from WSC notifying him WPCR's franchise had been  
10  
11 terminated. This notice was sent to WPCR's real estate agents before Maxwell learned of the  
12  
13 termination of WPCR's franchise.  
14

15           23.     After WSC terminated WPCR's franchise agreement, Maxwell entered into a  
16  
17 franchise agreement with Better Homes and Gardens ("BHG"). When WSC learned Maxwell had  
18  
19 entered into the BHG franchise agreement, WSC's corporate counsel, Paul Drayna, sent an email  
20  
21 directly to BHG's corporate counsel. Mr. Drayna's email stated that WSC had recently terminated  
22  
23 WPCR's franchise for failure to pay license fees and other amounts and that WSC reserved all  
24  
25 rights to pursue all amounts owing against Maxwell personally.  
26

27           24.     Mr. Drayna's email to BHG's counsel also informed them that Jacobi, the founder  
28  
29 and Chairman of the Board of WSC, was also a member of WPCR, and included portions of the  
30  
31 WPCR Operating Agreement which gave Jacobi "veto" power. Mr. Drayna further warned BHG  
32  
33 that Jacobi was preparing to commence legal action against Maxwell and his new company.  
34

35           A.     **First Counterclaim – Violation of Washington Franchise Investment Protection**  
36                   **Act**  
37

38           25.     The acts of Counterdefendant WSC alleged hereinabove constitute numerous  
39  
40 violations of the Washington Franchise Investment Protection Act ("FIPA"). As a proximate result  
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42 of Counterdefendant's violations of FIPA, Counterclaimant has suffered damages in excess of  
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44 \$4,000,000.  
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vi) For such other and further relief as the court deems just and equitable.

DATED this 16<sup>th</sup> day of November, 2010.

JACKSON & CO.

By:   
Ronald L. Jackson, WSBA #14903  
Attorney for Defendants, and  
Counterclaimant

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SUPERIOR COURT OF KING COUNTY  
STATE OF WASHINGTON

WINDERMERE REAL ESTATE SERVICES  
COMPANY, a Washington corporation,

Plaintiff,

v.

ELDON J. MAXWELL, II, an individual a/k/a  
JOE MAXWELL, a/k/a JOSEPH  
MAXWELL, and JANE DOE MAXWELL,  
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Defendants.

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JOE MAXWELL, a/k/a JOSEPH  
MAXWELL,

Counterclaimant,

v.

WINDERMERE REAL ESTATE SERVICES  
COMPANY, a Washington corporation,

Counterdefendant.

Case No. 10-2-36192-8 SEA

CERTIFICATE OF SERVICE

I, Jennifer Lee, certify that at all times mentioned herein, I was and am a resident of the State of Washington, over the age of eighteen years, not a party to the proceeding or interested therein, and

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competent to be a witness therein. My business address is that of Jackson & Co., 10900 NE 8<sup>th</sup> Street, Suite 820, Bellevue, Washington 98004.


On November 16, 2010, I caused a copy of the following documents:

1. Defendants Eldon J. Maxwell, II and Jane Doe Maxwell's Answer to Complaint and Counterclaims; and
2. this Certificate of Service

to be served upon the following individuals in the manner indicated below:

Paul Stephen Drayna, P.S.	<input type="checkbox"/>	Via Facsimile
5424 Sand Point Way NE	<input type="checkbox"/>	Via Mail
Seattle, WA 98105	<input checked="" type="checkbox"/>	Via Messenger
	<input checked="" type="checkbox"/>	Via E-Mail

DATED: November 16, 2010, at Bellevue, Washington.

  
 \_\_\_\_\_  
 Jennifer Lee  
 Legal Assistant