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FILED
SAN MATEO COUNTY

SEP 19 2012

Clerk of the Superior Court
By *Debra Lewis*
DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN MATEO

Case No.: CIV495673

JUDGMENT AFTER COURT TRIAL

UNIVERSAL HOME IMPROVEMENT,
INC. a California corporation; THE
GUTTERSHTTER COMPANY, INC., a
California corporation; GUTTERSHTTER
OF CALIFORNIA, a California corporation;
MARK LAVINE, an individual

Plaintiffs,

vs.

GUTTERSHTTER, an Ohio Corporation;
THE GUTTERSHTTER
MANUFACTURING COMPANY, an Ohio
corporation; MARK STEINBERG, an
individual; JAMES ROBERTSON, an
individual; KATHERINE ROBERTSTON, an
individual, ,AUGUST WEST ENTERPRISES,
a California corporation; and DOES 3-25,

Defendants.

AND RELATED CROSS-ACTIONS.

Trial Date: March 6, 2012
Time: 9:00 a.m.
Dept.: 10
Judge: Hon. Gerald J. Buchwald

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2. On the Second and Fifth & Sixth Causes of Action, Plaintiffs UHI, GSI, and GSC, jointly and severally, shall have recovery of monetary damages, based on tort liability, against Defendants James Robertson and Katherine Robertson, jointly and severally, in the amount of \$ 3.5 Million dollars.
3. As prevailing parties on those three Causes of Action, Plaintiffs are also awarded prejudgment interest at a rate of 10 percent per year, \$958 per day, from and after April 10, 2008 until such time as this Judgment is entered;
4. Plaintiffs' Fourth Cause of Action (for Misappropriation of Trade Secret) against Defendants James and Katherine Robertson is hereby Dismissed Without Prejudice, each side to bear their own costs and attorneys fees on dismissal. Plaintiffs' Seventh Cause of Action (for Unlawful Use of another's Contractor's License under Business & Professions Code, Section 7028.41) is also hereby Dismissed Without Prejudice, each side to bear their own costs and attorneys fees on dismissal.
5. Plaintiffs' First Cause of Action (for Breach of Contract – Repudiation) and Third Cause of Action (for Fraud) shall stand as rendered moot by virtue of the separate pretrial Settlement between Plaintiffs and the Guttershutter Ohio Defendants.
6. Defendants' Cross-Cross-Complaint against Mark Lavine, UHI, GSI and GSC is hereby Dismissed With Prejudice, except as to their Tenth Cause of Action (for Declaratory Relief). Said Declaratory Relief claim shall be considered along with Plaintiffs' Prayer, in their Third Amended Complaint, for "Any Other Such Relief To Plaintiffs As The Court Deems Just And Proper". (Third Amended Complaint, page 43, paragraph 10 of the Prayer For Judgment.)

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7. On Defendants' Tenth Cause of Action (for Declaratory Relief) and Plaintiffs' operative Prayer (for Other Such Relief...As...Just And Proper), the Court finds and declares that Defendant James Robertson is not entitled to any ownership interest in the new dealership agreement to sell Gutter Shutter Products, i.e. the agreement which is currently being negotiated between Mark Lavine and UHI with GS Ohio as per the pretrial Settlement reached between them.

8. On the Plaintiffs' Eighth Cause of Action (for Unfair Competition Under Business & Professions Code, Section 17200), An injunction shall issue against Defendants Robertson and Kathy Robertson and in favor of Plaintiffs as follows:

- a. Defendant James Robertson shall immediately resign his position as Vice President and Member of the Board of Directors of GSC and GSI;
- b. No later than December 31, 2012, but just as soon as practicable prior to that date, Defendant James Robertson shall surrender his shares in GSC and GSI to the corporations for purchase by them in an amount consistent with the terms of the Agreement Among Shareholders set forth in trial **Exhibit 39**. The value shall be calculated without taking into account the \$3.5 Million to be restored to those companies and the prejudgment interest thereon.
- c. No later than December 31, 2012, but just as soon as practicable prior to that date, Defendant James Robertson shall return to Plaintiffs all corporate property, stationary, equipment, materials and

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supplies belonging to Plaintiffs, if any, that are still in the possession of Defendants Robertson.

d. Defendants James Robertson and Katherine Robertson are enjoined from conducting any business in the covered gutter market anywhere in the State of California for a period of Five Years from the date of entry of this Judgment.


Counsel for Plaintiffs to prepare and submit to the Court a form of Injunction consistent with the above-stated terms and conditions.

9. Determination of punitive damages, if any, is reserved for further proceedings, if Plaintiffs elect to pursue that issue.

10. As to the above-referenced Causes of Action on which Plaintiffs have prevailed, Plaintiffs shall have their costs of suit herein subject to the filing of a usual Memorandum of Costs and any Motion to Tax Costs. The issue of attorney's fees is reserved pending application by appropriate post-trial Motion.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Date: September 11, 2012.


GERALD J. BUCHWALD
JUDGE OF THE SUPERIOR COURT