

XXX Self Storage

CERTIFIED MAIL NO.

Re: *Tally Smith*

Dear XXX Self Storage .:

This firm has been retained by John Smith to prosecute legal action against you for damages.

On or about _____, 20__, John Smith entered into a Contract for self-service storage rental with XXX Self Storage , _____; a true and correct copy of the Contract has been marked “**EXHIBIT A**” and is attached to this instrument.

On or about _____, 20__, an unknown person removed the lock from Mr. Smith ’s storage unit and removed the contents. Mr. Smith has since learned from the police that this has happened at this location numerous times in the three months proceeding Mr. Smith ’s purchase of a rental unit.

At no time was Mr. Smith informed that vandalism and theft occurred at this location. No cautionary warnings, other than the standard preprinted statements on the contract were given. Mr. Smith was looking for a safe, secure place to store his belongings and that was what you led him to believe.. Nothing could have been further from the truth. Mr. Smith was misled into believing that his belongings would be safe and was fraudulently induced into entering into a contract with you that resulted in the loss of his belongings.

As a consequence of your wrongful acts and omissions in misrepresenting the safety and security of your facility, my client has incurred substantial damages.

In his dealings with you, John Smith contracted with you for goods and services. Accordingly, in this transaction John Smith was clearly a “consumer” as such term is defined in Section 17.45, TEXAS BUSINESS & COMMERCE CODE.

John Smith asserts that you committed a number of false, misleading or deceptive acts and practices prohibited by Section 17.46 of the TEXAS BUSINESS & COMMERCE CODE (the Texas Consumer Protection – Deceptive Trade Practices Act) including, but not limited to, the following:

1. Representing that goods or services have characteristics, uses, or benefits which they do not have, in violation of TEXAS BUSINESS & COMMERCE CODE § 17.46(b)(5);
2. Representing that goods or services are of a particular standard, quality, or grade, if they are of another, in violation of TEXAS BUSINESS & COMMERCE CODE § 17.46(b)(7);
3. Advertising goods or services with intent not to sell them as advertised, in violation of TEXAS BUSINESS & COMMERCE CODE § 17.46(b)(9);
4. Representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law, in violation of TEXAS BUSINESS & COMMERCE CODE § 17.46(b)(12);
5. Failing to disclose information concerning goods or services which was known at the time of the transaction thereby intending to induce John Smith into entering into the referenced agreement, knowing that he would not have entered into such agreement had such information been disclosed, in violation of TEXAS BUSINESS & COMMERCE CODE § 17.46(b)(24).

The foregoing violations were committed knowingly and intentionally, and John Smith relied on your representations, acts, and omissions to his damage and detriment.

Further, the representations, acts, and omissions made by you in your dealings with John Smith constituted an “unconscionable action or course of action” as such term is defined in Section 17.45(5), TEXAS BUSINESS & COMMERCE CODE.

In addition to constituting numerous violations of the Texas Consumer Protection – Deceptive Trade Practices Act, the above-described acts and omissions made by you constituted, among other things: misrepresentation; negligence; negligent misrepresentation; constructive fraud; breach of contract; breach of express warranty; breach of implied warranty; breach of implied warranty of authority, fraud; and breach of duty of good faith and fair dealing.

As a direct result of your wrongful acts and omissions, John Smith has been compelled to retain the services of this firm to seek redress for the damages they have suffered. As of the date of this writing, the fee for the legal services and related costs incurred in this matter is \$2,000.00

Therefore, the total damages thus far suffered by Mr. Smith as a direct consequence of your fraudulent acts is \$24,475.00, itemized as follows:

1. Sony Combo TV/VCR \$400.00;
2. IBM computer \$1,200.00;
3. Dell Laptop computer \$2,675.00;
4. HP printer/scanner/copier \$250.00;
5. Three leather jackets \$2,000.00;
6. Four bed comforters \$200.00;
7. Accounting books \$3,000.00;
8. Two standing fans \$180.00;
9. Bread maker \$320.00;
10. Two DVD players \$400.00;
11. VCR \$125.00;
12. Philips TV \$325.00;
13. Sharp camcorder \$350.00;
14. Sharp microwave \$120.00;
15. Magnavox stereo \$120.00;
16. 18 inch tires with custom wheels \$7,000.00;
17. 18 inch tires \$400.00;
18. Digital camera \$110.00;
19. Lawn mower \$110.00;
20. Leaf blower \$65.00;
21. Lawn edger \$45.00;
22. Rack of clothes \$1,100.00; and
23. Box of shoes \$700.00.
24. Mental anguish: \$1,000.00; and
25. Attorney fees incurred to date in the amount of \$2,000.00 in connection with investigating and pursuing this claim.

Demand is hereby made upon XXX Self Storage , to immediately pay the total amount of damages sustained, \$24,475.00, to John Smith through this office immediately.

This letter constitutes notice that unless we receive a certified check, cashier's check, or money order for such full amount, \$24,475.00 on or before October 11, 2004, this firm has been instructed to take whatever steps are necessary to protect our client's interests.

In such event, Mr. Smith has authorized and instructed us to file and prosecute a lawsuit against you to collect all damages caused by the above-described wrongful representations, acts, and omissions.

In connection with such litigation, we have been directed to pursue all proper legal remedies and to seek all available relief including, but not limited to, direct and consequential damages, penalties as provided by the Texas Consumer Protection – Deceptive Trade Practices Act, attorney fees, interest, court costs, and such additional punitive damages as may be legally appropriate.

Pursuant to Section 17.505, TEXAS BUSINESS & COMMERCE CODE, please be advised that if this claim has not been resolved within sixty (60) days from the date you receive this notice, the petition in the above-referenced lawsuit against you will be amended to request additional relief under the provisions of Section 17.50, TEXAS BUSINESS & COMMERCE CODE, including treble damages as authorized therein.

Please pay this claim now to avoid litigation and further expense. Your immediate response to this serious matter will be appreciated.

Sincerely,

Chris McHam

cc: MR. Smith
Better Business Bureau