

E: help@premiumhomeservice.info

Jeffrey L. Schultz
Re: Premiumhomeservice.info (AT Ref. 7323-TBA)

Mr Schultz,

This letter constitutes my response to your letter dated May 25th, 2022, regarding the Premium Home Service (subsequently referred to as “PHS”) company and the website at premiumhomeservice.info.

Thank you for taking the time to talk by phone on June 03rd. I note that I requested the call be recorded, and you stated that you would not consent to that.

I note that I requested specific details around the threats, incorrect information, and tortious interference that your letter alleged, but you were unable to provide any details regarding the same during our meeting or in response to my subsequent email that day, June 03rd 2022. Despite multiple requests, you have provided no evidence or details to support any of your claims. Given these facts, it is clear that your Cease and Desist letter was sent negligently and in bad faith with the intention to inconvenience the respondent, rather than with any genuine belief in the validity of your allegations.

Please find below the responses, in bullet form for clarity.

- 1) You allege “harassing and overtly threatening” statements and communications made by me against PHS and their partner Exelcius. You have been unwilling or unable to provide evidence of these emails or communications, other than stating that they are presented as having come from the help@premiumhomeservice.info address. I am not aware of any statements or communications that could be reasonably interpreted as such, and I reject these unfounded allegations.

To the best of my knowledge, I am the only person with access to the help@premiumhomeservice.info email mailbox. Any email purporting to come from that address which I am not aware of is therefore illegitimate. I would strongly encourage your engagement of a technical expert to assist in identifying anyone involved. Please see below a complete record of emails sent from the genuine help@premiumhomeservice.info email box since inception.

Redacted

Complete record of emails sent from the help@premiumhomeservice.info mailbox

I have consulted with the email service provider (34SP) which hosts the help@premiumhomeservice.info email. They have confirmed that if you provide the emails, they can review their server logs and definitively state whether the email came from the genuine help@premiumhomeservice.info email server. I will be happy to facilitate direct contact between you and their technical support for this purpose.

I have reported this email spoofing to the police. Per §46.002 of the 2005 Texas Business and Commerce Code, and §33.07 of the Texas Penal Code, it is a crime under Texas law to impersonate someone online with the intention of causing harm. I intend to pursue the matter to the fullest extent of the law.

A police report regarding the matter has been filed with Sugar Land Police Department, case # [REDACTED]. I have provided them with Mr Schultz's contact information, as well as that of your client, and hope that you will cooperate with their investigation to identify the party or parties responsible.

As you are no doubt aware, an individual with even the most basic technical expertise would find it trivial to spoof the "from" address of an email. The first two results from a "Google" search for the phrase "send a spoofed email" are:

- An article providing links to seven different websites which can be used to send a spoofed email (<https://www.makeuseof.com/tag/deadfake-send-fake-anonymous-email-messages/>)
- An article describing how spoofed emails work (<https://fraudmarc.com/how-to-send-a-spoofed-phishing-email/>)

Most web browsers also offer a function such as Google Chrome's "Inspect" function which allows a user to open the HTML code of any webpage that they are viewing, and make local changes to the code; this makes it trivial to locally change any text that is being viewed in a web browser.

Redacted

An email edited using Google Chrome's "Inspect" function and then screen-shotted, as an example.

If an email is "printed" to PDF, then a PDF editor can be used to change the text as simply as one can edit an MS Word text document.

The above information should make it clear that a simple screenshot or PDF of an email has no evidentiary value. To properly understand the provenance of an email it is necessary to

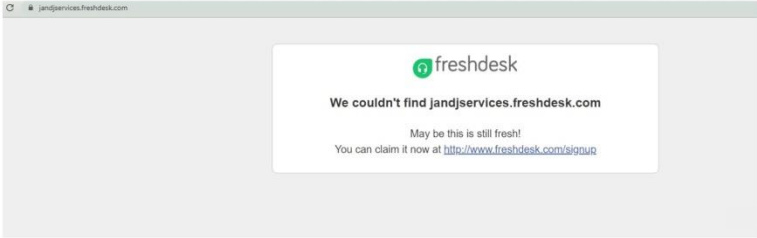
review the full metadata/headers and have it independently verified by the 3rd party servers which it has supposedly passed through.

PHS is known to use spoofed emails. For example, when they charge a customer, the receipt is sent from an address claiming to be hosted by “Freshdesk.” On 27th April, 2022, Freshdesk confirmed that PHS does not have an account with their company. See below for evidence of PHS’s apparent spoofing of emails.

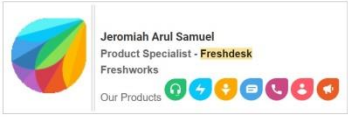
Redacted

Email sent by PHS purporting to be from Freshdesk

Jeremiah Arul Samuel V <support@freshdesk.com>
to me ▾
Hello Ross,
Thanks for writing back to us.
We do see that this account is no longer with **freshdesk**. We have also notified our internal team to monitor this URL for any activity. If you encounter with any further issue feel free to write back to the support address registered or FCC to investigate on this.



We are resolving this case for the time being. Feel free to revert us back, if you need any further clarifications.
Check your ticket status - <https://support.freshdesk.com/support/tickets/11662500>
Regards,



My working hours are from 09:00PM to 06:00 AM IST (Monday - Friday).
Alternatively, you can contact our 24/7 support at +1 866 832 3090.

Email from Freshdesk confirming that PHS is not a Freshdesk customer.

- 2) It should be noted that attempts to unlawfully access the website’s management system were made on 26th May 2022 from an IP address in Chicago. I would encourage your contacting the RCN Corporation to acquire the subscriber data involved. It is likely that the same individual is connected to the spoofed emails, and this information has been included in the police report mentioned earlier.

WordPress [REDACTED]
 to me ▾
 Someone has requested a password reset for the following account:
 Site Name: The Premium Home Service Experience
 Username: [REDACTED]
 If this was a mistake, ignore this email and nothing will happen.
 To reset your password, visit the following address:
 [REDACTED]
 This password reset request originated from the IP address 24.148.90.38.
 Email confirming unlawful attempt to access premiumhomeservice.com management system

3) On the subject of threatening statements, I must draw your attention to specific threats of violence made by PHS and their employees against me, both verbally and in writing.

The owner of PHS, Mr. Bernath, has communicated to me that his employee [REDACTED] is “crazy” and “violent”. Despite this, he appears to have provided [REDACTED] with my name and address, using the information which I provided to PHS as a customer of theirs.

[REDACTED] has made specific threats to “kick my ass” and “torture” me, which are copied below. He re-iterated his intent to act on these threats on June 2nd, 2022. Given [REDACTED], I view these threats as credible.

Redacted for employee’s privacy	Redacted for employee’s privacy	Redacted for employee’s privacy
Screenshots of pertinent messages from your client Mr. Bernath regarding the violent nature of [REDACTED], and claimed visits from police. One image has been edited for format (reduction of width) only.		

Please note that Mr. Bernath’s claims that [REDACTED] is not his employee are demonstrably untrue; I am informed by PHS management that [REDACTED] has been issued a paycheck by PHS as recently as April of 2022, and [REDACTED] has posted public videos of himself performing work for Mr. Bernath at Mr. Bernath’s residence in May 2022.

Redacted for employee’s privacy	Redacted for employee’s privacy	Redacted for employee’s privacy
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Screenshots of messages from your client's employee, [REDACTED], confirming his intent to carry out violent actions. Screenshots have been edited for format (reduction of width) only.

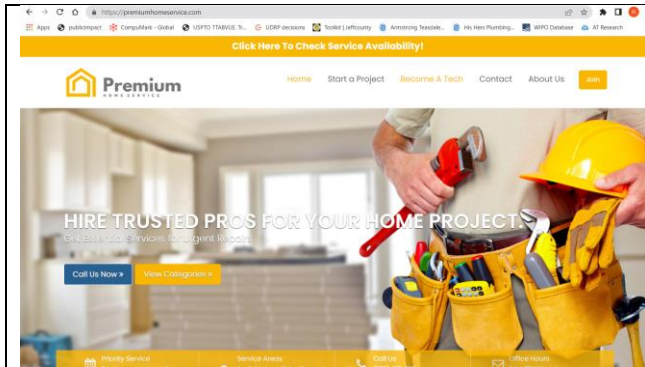
- 4) The owner and employees of PHS created a website (since removed), which they entitled "The [REDACTED] Experience". PHS used a faked email address to draw my attention to this. As well as numerous demonstrably false and defamatory statements, PHS included my home address and photographs on this site.

Redacted

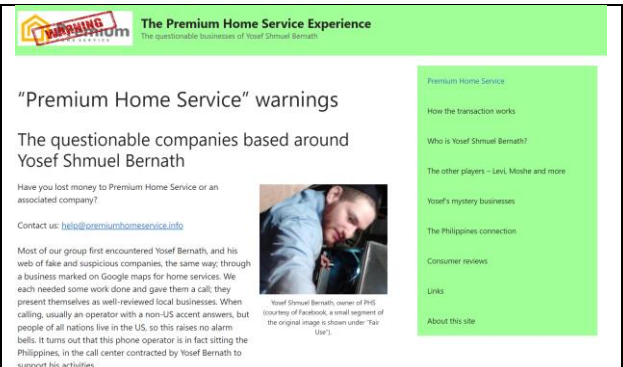
Email from PHS associate regarding the mentioned website.

Any complaint by PHS about the legitimacy of the premiumhomeservice.info site would seem to be undermined by their identical actions, particularly given that they used what should be private data which was provided to them in my role as a customer.

- 5) PHS's Allegations of trademark infringement are unfounded
- a. PHS holds no valid trademark in the color of their website. Color marks must serve a source identification function, and must not serve a merely decorative or utilitarian purpose; furthermore, color marks require proof of "secondary meaning" (*Qualitex Co. v. Jacobson Products Co.*, 514 U.S. 159). Despite its use of yellow on the website, PHS does not provide or use yellow branding anywhere else. Furthermore, yellow is in common use on similar sites across the internet. We assert that there is no possible infringement regarding the color, as no color mark exists. However, the color of the premiumhomeservice.info site has been changed as a gesture of goodwill and to prevent the need for further discussion.
 - b. The arrangement of blocks of text, with a menu, are in no way unique to the website of PHS and are a common standard for layout across the internet. The layout of the two sites (for example, the location of the menus) is clearly different.

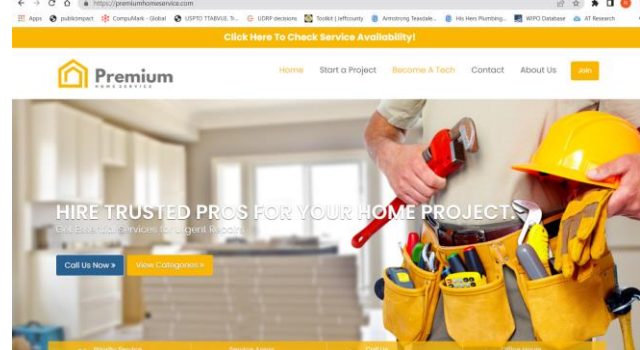
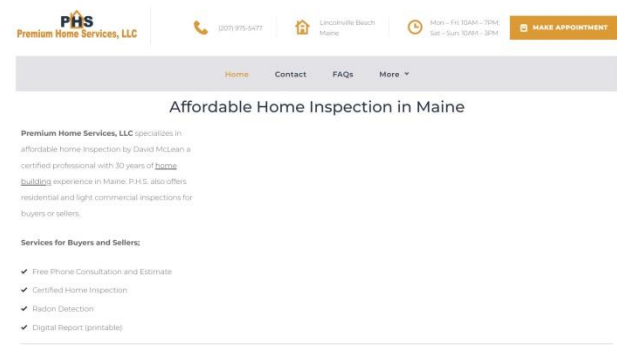


The website of PHS



The website of premiumhomeservice.info

- c. The PHS site itself, including its logo, appears to be plagiarized from an established business in the state of Maine known as “Premium Home Services LLC”. Their website can be viewed at <https://premiumhomeservicesllc.com/>

	
<p>The website of PHS, domain registered in 2019</p>	<p>The website of Premium Home Services LLC, seemingly plagiarized by PHS, registered in 2018</p>

- d. Images of any buildings are taken from Google Maps Streetview, which grants a license for use of its materials to users with proper attribution. PHS does not hold the copyright to any of these images. The images are directly relevant to the purpose of the website, being the registered address of the business, and being an advertising location of PHS.
- e. Images of people are from publicly posted sources, and are cropped and/or reduced in resolution. Per Section 107 of the Copyright Act, these photographs are being used for criticism, comment, and news reporting.
- f. PHS’s branding is in no way unique across the internet and variations of the same logo and site layout can be found in multiple locations. On the premiumhomeservice.info site, the logo has been significantly altered in a manner which makes it clear that it is not officially connected to PHS.

		
<p>PHS logo</p>	<p>Premium Home Services LLC, Maine logo</p>	<p>GSM Real Estate logo</p>

		
Premier Real Estate logo	Premium Home Source logo	Free logos available on Vecteezy

- 6) The use of a company’s name in or as a domain name does not in itself constitute infringement. Courts have found that speech critical of a business is protected by the First Amendment (*Taubman Company v. Webfeats and Henry Mishkoff*, 319 F.3d 770). As an example, the website “royaldutchshellplc.com” and “shellenergy.website” have withstood any attempts by the Shell corporation to take control, despite its use of their logo and name. They were repeatedly ruled to be complaint sites that no reasonable person could mistake for the actual company.

The same applies to premiumhomeservice.info. It is very clearly a consumer complaint site, and makes no attempt to set itself up in competition or to make any financial gain. No reasonable person could mistake it for having any official involvement with PHS.

- 7) PHS has no common law trademark right to the phrase “premiumhomeservice,” and has no common law rights to the words “premium,” “home,” or “service.”
- a. PHS is not the first business to use the mark “premiumhomeservice.” Your letter does not allege a geographic region in which this mark was used, rather stating that the marks have been established “in a large portion of the United States.” A brief, non-exhaustive review of business registrations across the US reveals no fewer than 21 other businesses or marks registered as “Premium Home Service” or “Premium Home Services.” All of these businesses pre-date the stated dates for start-of-business for PHS. See Appendix A.
 - b. Even if PHS had been first to establish usage of a so-called “premiumhomeservice” mark, words such as “premium,” “home,” and “service” are “merely descriptive” marks that cannot obtain trademark protection. Trademark law does not countenance someone obtaining “a complete monopoly on use of a descriptive term simply by grabbing it first.” (*KP Permanent Make-Up, Inc. v. Lasting Impression I, Inc.*, 543 U.S. 111 (2004))

- c. As mentioned in point 4(c), PHS’s business name, logo, color scheme, and website appear to be plagiarized from a legitimate business, and certainly post-date the use of these features on the website of multiple other businesses. They can make no unique claim to such.

- d. At least one of these legitimate businesses, in addition to that previously mentioned in Maine, has made complaints of PHS impersonating their company, taking customers, and damaging their name. Premium Home Services of Greater Warrenton, Virginia, has been in business for over 20 years and has found the need to add a specific page to their website warning about the activities of PHS. A representative for the business has stated that they receive “daily” interruptions to their business caused by dissatisfied customers of PHS contacting them to complain.

This website can be viewed at <https://premiumacservice.com/2021/06/28/scam-alert-be-on-the-lookout-for-a-spoofing-site/>



The warning on the website of Premium Home Services, Virginia

- 8) Regarding allegations of untrue material on the premiumhomeservices website, all efforts have been made to ensure that only statements which can be backed up by public records or direct statements from PHS and their employees are included. The website has a notification stating such on every page, requesting that people bring any incorrect statements to our attention. To date, zero notifications of any incorrect information have been received.

Please note that I have been contacted by current and previous employees of PHS who have expressed willingness to corroborate statements made on the premiumhomeservice.info website, and who are in possession of documentation to back this up.

9) Claims of tortious interference are baseless.

- a. To prove tortious interference, PHS must show evidence that I had specific knowledge of a breached contract, intentionally and unjustifiably induced a breach of said contract, and demonstrate that the contract was breached due to my actions.
- b. I have no way of knowing anything about any specific contract between PHS and their customers.
- c. Parties have contacted me, through the premiumhomeservice.com website, stating that they have a contract with PHS which is not being fulfilled. My response to them has been a suggestion to contact a PHS manager, Mr Ryan Reagan, directly to resolve the issue. Contrary to any claims of tortious interference, my actions demonstrate an attempt to support successful completion of contracts between PHS and their customers.

Re: Premium Home Service - please help
From: T K [redacted] Date: 2022-05-17 18:47

I can't find my receipt. I know I had one. I'm really upset and sick of dealing with this company. I'm in Texas. Can the Police Detective contact me?

On Tuesday, May 17, 2022, 09:13:58 AM CDT, <help@premiumhomeservice.info> wrote:

Hi Stefan,
PHS does have some legitimate techs, so there's a chance that things might work out, although your story isn't too promising. Can you let us know the business name/number that you called? Did you get the name of the salesperson, or a receipt?
We'd recommend contacting one of the managers at their call center, Mr Ryan Reagan. He is the one person we have found who cares about trying to help the customer, and he will do what he can for you, although he doesn't have control over the finances. You can contact him on ryan@premiumhomeservice.com, or through WhatsApp on +63 968 883 7562.
Let us know how it goes, depending on where you are located, we are in contact with two police investigators who are investigating and might be able to assist.
Hunter.

On 2022-05-16 16:38, T K wrote:

My air-conditioning unit stopped working months ago and I wanted to have it fixed before the heat comes back. On top of Google search I clicked on a link and called the number. I was sold a 149 dollar membership that was supposed to save me 10 percent. I remember the first phone call with a guy with heavy accent. I ended up paying 12,000 cash approximately a week later to a salesperson. I didn't feel good about how pushy they were but I needed my 2 units fixed. The response was very quick until they got my money. 2 cancellations and 5 postponements later I still cannot get a straight answer. Is this just a money grabbing scam?

On Monday, May 16, 2022, 07:10:29 AM CDT, <help@premiumhomeservice.info> wrote:

Hi Stefan,
Sorry to hear about your problems with them. Most of the information we have pulled together is from government records, but we have also spoken to a few people who work within the organization and don't like the way they do business.
How did you find PHS, was it through one of their business postings on Google Maps, under a local name? What payment method have you used?
If you can provide as much information as you can, we'll try to help. There's one (American) manager in their Philippines call center who seems to be a good person and is trying to help out the customers that he can.
All the best, Hunter

On 2022-05-15 16:39, T K wrote:

I accidentally stumbled upon your website while I was trying to see if Premium Home Service is legitimate. I tried to have them work on my home and they postponed and cancelled several times the last two months. I already paid them 12,000.
Looking at your website I cannot believe what I see. The sheer amount of information is overwhelming. How did you even manage to put all that together? I am really worried now that I paid them money and they will never show up. Are they just a money scam? Will I ever see a refund if I ask for that?
I am hoping you can put my worries at ease...

Stefan
972-534-7575

Re: Premium Home Service Help
From: Christopher Hackett [redacted] Date: 2022-05-18 18:39

Thank you for your help!

On Wed, May 18, 2022 at 10:38 AM <help@premiumhomeservice.info> wrote:

Hi Christopher,
We'd recommend contacting one of the managers at their call center, Mr Ryan Reagan. He is the one person we have found who cares about trying to help the customer, and he will do what he can for you, although he doesn't have control over the finances. He would be able to give a membership refund, if that's all you've paid so far. You can contact him on ryan@premiumhomeservice.com, or through WhatsApp on +63 968 883 7562.
If he can't help you, let us know. A charge-back through your credit card should work fine, especially if you refer them to our site as evidence.
All the best,
On 2022-05-17 20:30, Christopher Hackett wrote:

Hi,
I came across your website after purchasing a Premium Home Service membership and nobody ever showed up. I've done some research and came across some information they've posted on their team members: <https://www.premiumhomeservice.com/team/>
I'm in Austin, Texas and I've been trying to get someone out there for about 4 days.

Examples of emails received at info@premiumhomeservice.info, and responses

Purpose of Website

Speech within the Website is protected under the First Amendment. The purpose of the premiumhomeservice.info site is clearly stated on the website. It exists to document actual customer interactions with PHS, including my own, and to provide information to any customer who has lost money to PHS and is attempting to take action to recover their losses. In my own case, all attempts to obtain a refund in line with PHS's electronic agreement were ignored, or rebuffed with threats of legal action. Once I made PHS aware by email that I had found out the connections to Mr Bernath, and that the calls were being taken by Excelcius, their management immediately phoned me to ask me how I knew these things, and to offer a refund.

Other consumers should not have to go to such lengths to claim a refund to which they are legally entitled, and this site is intended to allow them to locate such information, and provide them with the required information about the individuals who run PHS and can respond to their complaints.

Relevant background information regarding PHS.

The majority of this information is included on the premiumhomeservice.info website, and is repeated here for your convenience.

- PHS has set up multiple deceptive business listings on Google Maps, posing as local businesses. When a potential customer calls, the operator answers the call using the name of the local front business, and continues the illusion by offering a membership “for our local customers”.
 - See the linked report by Fox 6 Milwaukee: <https://www.fox6now.com/news/bad-electrical-work-big-surprise-contact-6-investigates>
 - This practice was confirmed as illegal in Milwaukee by Laura Sutherland of the Wisconsin Department of Agriculture, Trade and Consumer Protection
- These businesses solicit fake advertisements on Google, in contravention of FTC regulations.
 - The vast majority of 5-star reviews observed so far on PHS-related businesses appear to use stock images as their profile photo
 - Almost all of these profiles have left only 1 or 2 reviews, both at the same time, for the PHS business and then one other local business.
 - More than one profile was found which had left review for more than one PHS business, on different sides of the country, at the same time.
 - These fake review “chains” can be followed across 10s if not 100s of seemingly “front” businesses across Google Maps.
- Law enforcement have stated that PHS is the subject of a “wide-ranging and complex” investigation involving multiple local, state and federal agencies. For further details, you can contact the investigators mentioned below:
 - Investigator [REDACTED], Racine County Sheriff's Office.
 - [REDACTED] (cell)
 - [REDACTED] (desk)
 - [REDACTED]
 - Investigator [REDACTED], State of WI Dept of Consumer Protection
 - [REDACTED]

- [REDACTED]

Should you have any questions, or require any clarifications around this response, please feel free to contact me by phone or email.

[REDACTED]

Signature redacted

Appendix A: List of businesses using the phrase premium home service, predating PHS.

Arizona

Premium Home Services (Trade Name) Entity ID S470269
Premium Home Services LLC Entity ID L15549855

California

Premium Home Services LLC Entity ID 202010810172

Florida

PREMIUM HOME SERVICE CONTRACTORS, LLC FEI/EIN Number 46-1314338
PREMIUM HOME SERVICES, LLC FEI/EIN Number 86-1548978
PREMIUM HOME SERVICES MANAGEMENT INC FEI/EIN Number 86-1643809

Georgia

Hembree Premium Home Services LLC Control Number 20130873

Hawaii

PREMIUM HOME SERVICES Certificate Number 4123374

Indiana

PREMIUM HOME SERVICES LLC Business ID 202107121505962

Iowa

PREMIUM HOME SERVICES LLC Business No 519909

Maine

PREMIUM HOME SERVICES LLC Charter Number 20184615DC

Maryland

PREMIUM HOME SERVICES Department ID T00519587

Missouri

Premium Home Service LLC Charter Number LC1030736

Nevada

PREMIUM HOME SERVICES, INC Business ID NV20021504486

New Jersey

PREMIUM HOME SERVICES LLC Entity ID 0450562118

Ohio

PREMIUM HOME SERVICES, LLC Entity # 1732273

Oregon

PREMIUM HOME SERVICES, LLC Registry No 290408-96

South Carolina

Premium Home Solutions & Services LLC

Utah

PREMIUM HOME SERVICES, INC. Entity No 6295977-0142

Virginia

premium home services, llc Entity ID S7857529

Wisconsin

PREMIUM HOME SERVICES LLC Entity ID P066328