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# O'Connor Carnathan & Mack



## ***Court Does Not Have Discretion to Award Single Damages After Finding a Willful and Knowing Violation of Chapter 93A***

Following a bench trial in the matter of *Amaria, Inc. v. Austin, et al.*, a Massachusetts Superior Court judge concluded that defendants had willfully and knowingly violated G.L. c. 93A, § 11. However, the judge only awarded single, not multiple, damages for that Chapter 93A violation. The plaintiffs, Amaria, Inc. and Robert Hixon (collectively “Plaintiffs”), moved for reconsideration.

The court allowed Plaintiffs’ motion, explaining that the court had erred in concluding that it had discretion to award only single damages after finding a willful and knowing violation of Chapter 93A. The court agreed with the Plaintiffs that the “plain language of the statute requires a minimum award of double damages for knowing and willful violations.” The court rejected

defendants' argument that multiple damages under Chapter 93A are not available where a court has also ordered equitable relief through specific performance of a sale of property to a plaintiff. The court explained that the SJC case relied on by defendants (*Schwartz v. Rose*, 418 Mass. 41 (1994)) "does not stand for the proposition . . . that an equitable sale in which the injured party is paying money to the deceptive actor acts to foreclose the injured party's right to punitive damages for the additional pecuniary losses sustained when the transaction did not proceed as originally bargained for."

This case is a reminder that a finding of willful and knowing violation of Chapter 93A is powerful and carries with it not just the possibility, but the promise, of an award of at least double damages.

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