

CITY AND COUNTY OF SAN FRANCISCO



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June 25, 2014

Dan Shifrin, Founder
ParkModo
via email: contact@parkmodo.com

Re: Cease and Desist

Dear Mr. Shifrin:

Your company, ParkModo is preparing to test market a software application for mobile electronic communication devices that purports to allow users to buy and sell the right to occupy public street parking spaces in the City and County of San Francisco (the "City"). Your company is also hiring drivers to occupy public parking spaces until the parking space is sold. Your recent advertisement on Craigslist admits that your drivers will be instructed to "find a spot in the area and park" and then "using the app, you will offer the spot for sale."

The City regulates and establishes the rates to temporarily occupy public parking spaces. The use of those public parking spaces is not subject to any private auction scheme; accordingly, your application violates the law, including but not limited to, the laws that we describe below.

San Francisco Police Code Section 63(b) specifically prohibits the buying and selling of public street parking spaces. The San Francisco Police Code provides: "It shall be unlawful for any person, firm or corporation to enter into a lease, rental agreement or contract of any kind, written or oral, with or without compensation, for the use of any street or sidewalk." SFMPC §63(b). Any "person, firm or corporation who is in violation of this section shall be subject to an administrative penalty not to exceed \$300 for each violation." SFMPC §63(c).

ParkModo is facilitating and encouraging drivers to enter unlawful agreements with users that are looking for parking, and misleading them into believing that their transactions are lawful. Even for promotional purposes, the hiring of drivers to occupy and sell public parking spaces is by itself an unlawful contract in violation of the San Francisco Municipal Police Code. In addition, every time a public parking space is sold, ParkModo, its drivers, and each of its users, may be subject to the \$300 administrative penalty authorized by San Francisco Municipal Police Code Section 63(c).

Also, ParkModo is facilitating and encouraging drivers to use cell phones and other wireless communication devices in a manner that distracts them, posing a safety hazard to the public and violating state laws that prohibit using cell phones and such other devices while driving.

Because ParkModo's business model is premised on unlawful transactions, ParkModo, with each transaction, is committing an unlawful or unfair business practice that violates California Business and Profession Code Section 17200, also known as the Unfair Competition Law ("UCL"). The UCL authorizes this office to file a lawsuit against violators, seeking injunctive relief, and an award of civil penalties of up to \$2,500 *per violation*. Each download, each purchase, and each sale of a public street parking space may be considered a separate UCL violation.

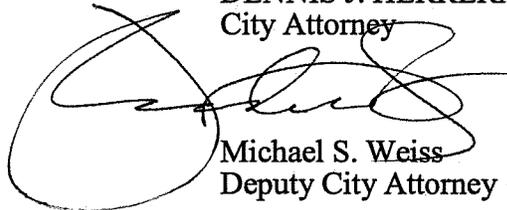
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Per your request, we are willing to meet with you to discuss any changes you may have made to your business model that would make your application legal. However, ParkModo must immediately cease and desist efforts to launch its unlawful business practice of illegally taking, holding, and selling public parking spaces for financial consideration, within the City and County of San Francisco, or face legal action by this office. No later than the close of business on Friday, June 27, 2014, please confirm in writing that ParkModo has abandoned its stated plans to so operate in the City.

If you have any questions, please contact me, or have your legal representative contact me directly. We look forward to a swift and amicable resolution.

Very truly yours,

DENNIS J. HERRERA
City Attorney

A handwritten signature in black ink, appearing to read "Michael S. Weiss", is written over the typed name and title of the Deputy City Attorney.

Michael S. Weiss
Deputy City Attorney