

IN THE COURT OF COMMON PLEAS  
HIGHLAND COUNTY, OHIO

STATE OF OHIO, *ex rel.*  
MICHAEL DEWINE  
ATTORNEY GENERAL OF OHIO

Plaintiff,

v.

G.S. SOHAL, LLC  
D/B/A SHELL FOOD MART,  
AKA NEW MARKET SHELL STATION:

Defendant.

CASE NO. 13CV0165

JUDGE COSS

**FILED**  
COMMON PLEAS COURT  
HIGHLAND COUNTY, OHIO

JUN 03 2013

*D. J. H. H. H.*  
HIGHLAND COUNTY CLERK OF COURTS

**AGREED CONSENT JUDGMENT**  
**ENTRY AND ORDER**

**PREAMBLE**

This matter came to be heard upon the filing of a Complaint by the Attorney General of Ohio alleging that Defendant G.S. Sohal, LLC, doing business as Shell Food Mart and also known as New Market Shell Station ("Defendant"), violated the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq., and the Substantive Rules enacted thereunder. The Attorney General has reached an agreement with Defendant and this Agreed Consent Judgment Entry and Order is intended to resolve all of the claims alleged against Defendant in the Complaint. By signing this entry, Defendant submits to the personal jurisdiction of this Court and consents to the entry of this Agreed Consent Judgment Entry and Order ("Consent Judgment") pursuant to R.C. 1345.07(F).

Defendant hereby consents to the Court's findings of facts and conclusions of law, to the imposition of this Consent Judgment and to the rights of Plaintiff to enforce this Consent Judgment. Pursuant to R.C. 1345.10, this Consent Judgment is not admissible as *prima facie*

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ATTORNEY GENERAL OF OHIO

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evidence of the facts on which it is based for any subsequent proceedings brought by any party under R.C. 1345.09.

**AGREED FINDINGS OF FACT**

1. Defendant G.S. Sohal, LLC, doing business as Shell Food Mart and also known as New Market Shell Station ("New Market Shell") is an Ohio limited liability company with its principal place of business located at 5828 West New Market Road, Hillsboro, Ohio 45133.
2. Defendant New Market Shell was, at all times relevant herein, engaged in the business of soliciting and offering for sale, *inter alia*, synthetic narcotics/illegal drugs to consumers which were represented as "Incense," "Herbal Incense," and/or "Potpourri."
3. Defendant sold the synthetic narcotics/illegal drugs in plastic packets that failed to disclose the full list of ingredients and further omitted the illegal ingredients contained in the products.
4. On January 11, 2012, two confidential informants operating under the direction of the Highland County Sheriff's Office, went to Defendant's store located at 5828 West New Market Road, Hillsboro, Ohio 45133, for the purpose of purchasing some "K2."<sup>1</sup>
5. Upon approaching Defendant's clerk, the two confidential informants requested to purchase "K2" or anything like K2.
6. Defendant's store clerk reached beneath the counter to obtain the products and showed the confidential informants the three different types of "K2" that Defendant sold.

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<sup>1</sup> "K2" is a brand of synthetic cannabis which contains various synthetic cannabinoids which are Schedule I Controlled Substances. (See R.C. 3719.41(C)(67)).

7. The two confidential informants purchased the three containers of "incense" suspected to be K2 for a total of \$45.00.
8. The three products purchased were labeled as (1) "Cloud 9 Strawberry Mad Hatter" Incense, (2) "Metamorphosis" "Extra Strength Herbal Incense, and (3) "Illini Kronic" Potpourri.
9. The "Cloud 9 Strawberry Mad Hatter" incense was sold in a 3 gram packet which contained the following label: "IMPORTANT NOTICE: MADHATTER herbal blend does NOT CONTAIN any JWH 015, JWH 018, JWH 019, JWH 073, JWH 200, JWH 250, HU 210, HU 211, CP 47, 497, CP 47, 497(C8), STIMULANT BZP OR TEMPP."
10. Although the "Mad Hatter" packet claimed it did not contain certain illegal or prohibited ingredients, when tested, the vegetation inside the "Mad Hatter" packet did contain 1-(5-fluoropentyl)-3-(1-naphthoyl)indole ("AM2201") and 1-pentyl-3-(4-ethylnaphth-1-oyl)indole ("JWH-210"), both of which have chemical structures which are substantially similar to 1-pentyl-3-(1-naphthoyl)indole ("JWH-018"). JWH-018 is a Schedule I Controlled Substance. (See R.C. 3719.41(C)(35)) (amended 2012)<sup>2</sup>
11. The "Metamorphosis" Extra Strength Herbal Incense was sold in a small jar which contained a warning to "KEEP OUT OF REACH OF CHILDREN" and was labeled "NOT FOR HUMAN CONSUMPTION."

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<sup>2</sup> At the time of the transaction at issue, AM2201 and JWH-210 were controlled substance analogs to JWH-018, which was listed as a schedule I controlled substance under R.C. 3719.41(C)(35). (See R.C. 3719.01(HH) and 3719.031). Effective December 20, 2012, House Bill 334 amended R.C. 3719.41. Under the superseding statute, AM2201, JWH-210, and JWH-018 are schedule I controlled substances. R.C. 3719.41(C)(67)(a).

12. The "Metamorphosis" jar also contained the following label: "DOES NOT CONTAIN: JWH018-JWH015-JWH073-JWH200-JWH250, CP47, 497-HU210-HU331-HU308-WIN5212-2."
13. Although the "Metamorphosis" packet claimed it did not contain certain illegal or prohibited ingredients, when tested, the vegetation inside the "Metamorphosis" jar did contain AM2201 and 1-pentyl-3-(4-methylnaphth-1-oyl)indole ("JWH-122")<sup>3</sup>, both of which have chemical structures which are substantially similar to JWH-018.
14. The "Illini Kronik" was sold in a small jar which contained a warning to "KEEP OUT OF REACH OF CHILDREN" and was labeled "NOT FOR HUMAN CONSUMPTION."
15. The "Illini Kronik" jar also contained the following label: "DOES NOT CONTAIN ANY ILLEGAL SUBSTANCES."
16. Although the "Illini Kronik" jar claimed it did not contain any illegal substances, when tested, the vegetation inside the "Illini Kronik" jar did contain AM2201 and JWH-122, both of which have chemical structures which are substantially similar to JWH-018.
17. "Incense" is defined as "material used to produce a fragrant odor when burned" or "the perfume exhaled from some spices and gums when burned." (<http://www.merriam-webster.com/dictionary/incense>)
18. "Potpourri" is defined as "a mixture of flowers, herbs, and spices that is usually kept in a jar and used for scent." (<http://www.merriam-webster.com/dictionary/potpourri>)

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<sup>3</sup> At the time of the transaction at issue, AM2201 and JWH-122 were controlled substance analogs to JWH-018, which was listed as a schedule I controlled substance under R.C. 3719.41(C)(35). (See R.C. 3719.01(HH) and 3719.031). Effective December 20, 2012, House Bill 334 amended R.C. 3719.41. Under the superseding statute, AM2201, JWH-122, and JWH-018 are schedule I controlled substances. R.C. 3719.41(C)(67)(a).

19. Unlike typical incense, which is composed of certain biotic materials, or typical potpourri, which is composed of naturally fragrant plant materials the vegetation represented as incense and potpourri and sold by Defendant was coated with illegal and dangerous synthetic compounds that, when consumed, mimic the psychoactive and physiological effects of Tetrahydrocannabinol ("THC"), the active ingredient in cannabis, which is also an illegal Schedule I Controlled Substance. (See R.C. 3719.41(C)(27)) ([www.dea.gov](http://www.dea.gov))
20. Defendant sold products labeled as "incense" which contained various illegal Schedule I Controlled Substances and for which the ordinary and customary use for such products is to be smoked and consumed as a drug by humans.
21. Defendant offered for sale and sold synthetic narcotics/illegal drugs as legal products.

Defendant denies any violation or liability arising out of the Agreed Findings of Fact noted above and further asserts that Defendant acted under information received from its vendor of such products that no illegal substances were detected in the products based upon a toxicology report prepared by Toxicology Associates Inc., 999 Bethel Road, Columbus and a copy of its report was delivered to Defendant before the sale and purchase of the products. The payment by Defendant of the sum provided for in Paragraph 5 of the following Order shall not be considered by Plaintiff or any person or entity connected with Plaintiff, to be an admission by Defendant of any liability or wrongdoing, nor shall such payment be taken to imply any past or present wrongdoing on the part of Defendant or any person connected with Defendant. Neither party, entering into and performing the terms of this Consent Judgment, shall be considered to have made any admission with respect to any matter covered in this Consent Judgment.

### **CONCLUSIONS OF LAW**

22. The Court has jurisdiction over the subject matter, issues and parties to this Consent Judgment pursuant to R.C. 1345.04 of the CSPA.
23. The Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3) in that some of the transactions complained of herein, and out of which this action arose, occurred in Highland County.
24. The CSPA, R.C. 1345.01 et seq., governs the business practices of the Defendant.
25. The Ohio Attorney General is the proper party to commence these proceedings under the authority of R.C. 1345.07, and by virtue of his statutory and common law authority to protect the interests of the citizens of the State of Ohio.
26. Defendant is a "supplier," as defined in R.C. 1345.01(C), as Defendant was, at all times relevant herein, engaged in the business of effecting consumer transactions by soliciting, offering for sale, and selling synthetic narcotics/illegal drugs to individuals in Highland County in the State of Ohio for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).
27. Defendant has committed unfair, deceptive and unconscionable acts or practices in violation of the CSPA, R.C. 1345.02(A), by offering for sale and selling synthetic narcotics/illegal drugs as legal products.
28. Defendant has committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by failing to clearly and conspicuously disclose that its products contained Schedule I Controlled Substances and were thus illegal.
29. Defendant has committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), and the Exclusions and Limitations in Advertising Rule, Ohio Admin.

Code 109:4-3-02(A)(1), by failing to clearly and conspicuously disclose certain material exclusions related to its "incense" products. Specifically, while Defendant's "incense" products contained statements that they did not contain any prohibited ingredients or that they only contained certain ingredients, Defendant failed to disclose that its products contained other Schedule I Controlled Substances and were thus illegal.

### **ORDER**

For purposes of affecting this Consent Judgment Entry and Order, it is therefore ORDERED, ADJUDGED AND DECREED that:

1. Plaintiff's request for a Declaratory Judgment is GRANTED; and it is therefore DECLARED that the acts and practices set forth in the Agreed Findings of Fact and enumerated in the Conclusions of Law set forth above in Paragraphs (27) through (29) violate the CSPA, R.C. 1345.01 et seq., and the Substantive Rules enacted thereunder, in the manner set forth therein.
2. Defendant, its officers, partners, agents, representatives, salespersons, employees, independent contractors, successors, assigns, and all persons acting on behalf of Defendant, directly or indirectly, through any corporate device or private device, partnership or association in connection with any consumer transaction, including any person or entity which purchases any interest in the business and continues to operate the business, is hereby PERMANENTLY ENJOINED from violating the CSPA, R.C. 1345.01 et seq.
3. Defendant, its officers, partners, agents, representatives, salespersons, employees, independent contractors, successors, assigns, and all persons acting on behalf of Defendant, directly or indirectly, through any corporate device or private device,

partnership or association in connection with any consumer transaction, including any person or entity which purchases any interest in the business and continues to operate the business, is hereby PERMANENTLY ENJOINED from engaging in the acts and practices enumerated in the Conclusions of Law set forth above in Paragraphs (27) through (29).

4. IT IS FURTHER ORDERED that Defendant is PERMANENTLY ENJOINED from soliciting and engaging in the business of effecting consumer transactions by soliciting, offering for sale, and/or selling incense products, potpourri products, or synthetic narcotics/illegal drugs disguised as other "novelty" products in the State of Ohio as a supplier, as defined in R.C. 1345.01(C).
5. IT IS FURTHER ORDERED that Defendant is assessed and shall pay Five Thousand Dollars (\$5,000.00) to the Office of the Ohio Attorney General's General Holding Account (R004). Said payment shall be used by the Attorney General for such purposes that may include, but are not limited to, education about the use and danger of synthetic narcotics/illegal drugs, and the investigation of and enforcement for violations in relation to synthetic drug production, distribution, and possession. Two Thousand Five Hundred Dollars (\$2,500.00) is due and payable upon execution of this Consent Judgment and shall be made by delivering a certified check or money order, payable to the "Ohio Attorney General's Office," to:

**Teresa Goodridge**  
**Legal Research & Finance Assistance**  
**Consumer Protection Section**  
**30 E. Broad Street, 14<sup>th</sup> Floor**  
**Columbus, Ohio 43215**



The remaining balance of Two Thousand Five Hundred Dollars (\$2,500.00) is due within forty-five (45) calendar days of the execution date of this Consent Judgment and shall be made by delivering a certified check or money order, payable to the "Ohio Attorney General's Office," to the address listed above.

6. The Attorney General may assert any claim that Defendant has violated this Consent Judgment in a separate civil action to enforce this Consent Judgment or to seek any other relief afforded by law. In any such action or proceeding, relevant evidence of conduct that occurred before the filing date of this Consent Judgment shall be admissible on any material issue, including alleged willfulness, intent, knowledge, contempt or breach, to the extent permitted by law. By this paragraph, Defendant does not waive any evidentiary objection or any other objection it may have as permitted by law to the admissibility of any such evidence.
7. IT IS FURTHER ORDERED that any violation of the terms of this Consent Judgment shall constitute contempt. Service of any action for contempt shall be complete upon mailing a certified copy of such action to undersigned counsel for Defendant.
8. In the event the Ohio Attorney General must initiate legal action or incur any costs to compel Defendant to abide by this Consent Judgment, upon order of the Court, Defendant shall be liable to the Ohio Attorney General for any and all penalties imposed by the Court for contempt and, in addition to the civil penalties awarded herein, any such costs and reasonable attorneys' fees expended to proceed with such a motion for contempt that the Court may impose.
9. Failure of the Attorney General to timely enforce any term, condition, or requirement of this Consent Judgment shall not provide, nor be construed to provide, Defendant a

defense for noncompliance with any term of this Consent Judgment or any other law, rule, or regulation; nor shall it stop or limit the Attorney General from later enforcing any term of this Consent Judgment or seeking any other remedy available by law, rule, or regulation.

10. Nothing in this Consent Judgment shall in any way preclude any investigation or enforcement action against Defendant under any legal authority granted to the State for transactions not subject to this action.

11. IT IS FURTHER ORDERED that Defendant shall not represent directly or indirectly or in any way whatsoever that the Court or the Ohio Attorney General has sanctioned, condoned, or approved any part or aspect of Defendant's business operation.

12. IT IS FURTHER ORDERED that Defendant shall cooperate with the Ohio Attorney General or his representative by providing the Ohio Attorney General, upon his request and upon reasonable twenty-four (24) hour notice, copies of any and all records in the possession and/or control of Defendant which are necessary to establish compliance with the law, this Consent Judgment, and any court order granted herein, or to permit the Ohio Attorney General or his representative to inspect and/or copy any and all such records that are in the possession and/or control of Defendant.

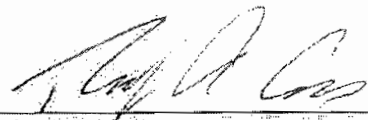
13. IT IS FURTHER ORDERED that Defendant shall pay all court costs associated with this

matter *WITHIN 30 DAYS. FAILURE to do so MAY RESULT IN A CONTEMPT CITATION.*

14. This Court shall retain jurisdiction to enforce compliance with this Consent Judgment.

IT IS SO ORDERED.

6-3-13  
DATE

  
HON. JUDGE

**JOINTLY APPROVED FOR ENTRY AND SUBMITTED BY:  
FOR THE OHIO ATTORNEY GENERAL, MICHAEL DEWINE**

  
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*Counsel for Plaintiff, State of Ohio*

5/7/13  
Date

**FOR DEFENDANT G.S. SOHAL, LLC,  
D/B/A SHELL FOOD MART  
A/K/A NEW MARKET SHELL**

  
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April 30 10, 3  
Date