

FILED
COURT OF COMMON PLEAS

APR 15 2015

LINDA K. FANNINGHAUSER, CLERK
PORTAGE COUNTY, OHIO

**IN THE COURT OF COMMON PLEAS
PORTAGE COUNTY, OHIO**

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

Plaintiff,

-vs-

Round House Racing, LLC.

Defendant.

) CASE NO. 2014 CV 00707

) JUDGE DOHERTY

RECEIVED

ATTORNEY GENERAL OF OHIO

MAY 27 2015

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

DEFAULT JUDGMENT ENTRY AND ORDER

This cause came to be heard upon Plaintiff's Motion for Default Judgment Against Defendant Round House Racing, LLC., pursuant to Civil Rule 55(A). Defendant was properly served and has failed to defend against this motion or file an Answer before the Court. The Court finds the motion well taken and hereby grants and sustains Plaintiff's Motion for Default Judgment. The Court, based on that motion, Plaintiff's Complaint, and the evidence provided at hearing, hereby renders the following Default Judgment Entry and Order.

FINDINGS OF FACT

1. Defendant Round House Racing, LLC. (hereinafter "Round House") is a corporation, who at all times relevant herein, organized and operated "Foam Fest 2014", a planned race on July 19, 2014 in Garrettsville, Ohio which was to raise proceeds for a charity titled "A Child's Hope Foundation.
2. Defendant solicited consumers in Ohio via radio promotions and via the Internet by

means of credit cards, merchant bank cards and on-line payment systems.

Defendant's business was incorporated, and was located in Spanish Fork, Utah.

3. Defendant accepted money from consumers and failed to provide that racing event to consumers. Days before the race was scheduled, consumers received emails from Round House notifying them of the cancellation of the race and were told their monies would not be refunded. Some consumers have received chargebacks from their credit card issuers.

CONCLUSIONS OF LAW

4. The Court has jurisdiction over the subject matter, issues and parties to this action and venue is proper.
5. The business practices of the Defendant as described herein and in Plaintiff's Complaint are governed by the Consumer Sales Practices Act, R.C. 1345.01 et seq.
6. The Ohio Attorney General, acting on behalf of the citizens of Ohio, and in the best interest of the State, is the proper party to commence this action under the authority of the Ohio Consumer Sales Practices Act, R.C. 1345.07, and by virtue of his authority to protect the interest of the citizens of the State of Ohio.
7. Defendant is a "supplier", as that term is defined in R.C. Section 1345.01(C), as Defendant is engaged in the business of effecting "consumer transactions" by offering a racing event for a fee, within the meaning of R.C. Section 1345.01(A).
8. Defendant has committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) and the Ohio Administrative Code

109:4-3-09, by accepting money from consumers for goods and services and failing to make full delivery or a refund.

9. Defendant has committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) and the Ohio Administrative Code 109:4-3-07 (B)(5) by failing to disclose at the time monies were paid the conditions and limitations of refunds.

WHEREFORE, this Court **ORDERS** that:

1. Each act or practice of which Plaintiff complains violates the Ohio Consumer Sales Practices Act in the manner set forth in the Complaint.
2. Defendant, and its agents, representatives, salesmen, employees, successors and assigns and all persons acting in concert or participation with Defendant, directly or indirectly, are **PERMANENTLY ENJOINED** from engaging in the acts or practices in violation of the Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq.
3. Defendant is **PERMANENTLY ENJOINED** from engaging in business in the State of Ohio as a supplier until all judgment ordered remuneration is paid, including any outstanding unsatisfied judgment arising out of a prior consumer transaction; and is further enjoined from engaging in the acts and practices of which Plaintiff complains.
4. Defendant is **ORDERED** to maintain in its possession and control for a period of five (5) years all business records relating to Defendant's solicitation or effectuation of business in Ohio and to permit the Ohio Attorney General or his representative, upon reasonable, twenty-four (24) hour notice, to inspect and/or copy any and all of said records, however stored, and further are **ORDERED** that copies of such records be provided at Defendant's expense to the Ohio Attorney General upon request of the Ohio Attorney General or his

representatives;

5. Defendant is liable for consumer restitution in the amount of Two Thousand Three Hundred and Ninety Three Dollars and Fifty Two Cents (\$2,393.52). Payment(s) shall be made to the Office of the Ohio Attorney General ("Attorney General"), to be distributed by the Attorney General in his sole discretion. The Attorney General will distribute this payment to individual consumers. Any remaining amount not distributed to consumers will revert to the Ohio Consumer Protection Enforcement Fund. Payment(s) shall be made by delivering a certified check or money order within 30 days of the date of this entry, made payable to the "Ohio Attorney General," to:

Teresa Goodridge
Legal and Finance Assistant
Consumer Protection Section
30 E. Broad Street, 14th Floor
Columbus, Ohio 43215

6. Defendant is assessed civil penalties in the amount of Five Thousand Dollars, \$5,000.00). Payment(s) shall be made by delivering a certified check or money order within 30 days of the date of this entry, made payable to the "Ohio Attorney General," to:

Teresa Goodridge
Legal Research and Finance Assistant
Consumer Protection Section
30 E. Broad Street, 14th Floor
Columbus, Ohio 43215

7. Defendant is liable for all court costs associated with bringing this action.

Civ R 58

IT IS SO ORDERED

4/15/15

Date

Barry Doherty

Judge Doherty