

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

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

Plaintiff,

v.

GVN MICHIGAN, INC.,
d/b/a GLOBAL VACATION NETWORK

And,

GVN CLEVELAND, LLC,
d/b/a PREFERRED ACCESS OHIO

Defendants.

CASE NO. 14-CV010397

JUDGE WILLIAM WOODS

CONSENT JUDGMENT
ENTRY AND ORDER

RECEIVED
ATTORNEY GENERAL OF OHIO

APR 18 2016

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

PREAMBLE

This matter came to be heard upon the filing of a Complaint on October 7, 2014 and an Amended Complaint on May 11, 2015 by the Ohio Attorney General on behalf of the State of Ohio ("Plaintiff"), alleging, in relevant part, that Defendants GVN Michigan, Inc. and GVN Cleveland, LLC, (collectively "Defendants"), violated Ohio's Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq. and its Substantive Rules, Ohio Administrative Code ("O.A.C.") 109:4-3-01 et seq. The parties have agreed to settle and resolve these matters. By signing this Consent Judgment Entry and Order ("Consent Judgment"), Defendants submit to the personal jurisdiction of this Court, consent to the Court's Conclusions of Law, consent to the imposition of this Consent Judgment pursuant to R.C. 1345.07(F), consent to the rights of Plaintiff to enforce this Consent Judgment, and waive any and all appeal rights they may have.

For the sole purpose of settling this dispute upon the terms and conditions set forth herein, Defendants acknowledge Plaintiff's Background and Statement of Factual Allegations and consent to the entry of this Order. In so doing, Defendants expressly deny any and all allegations asserted against them (including, but not limited to, the allegations contained in the Plaintiff's Statement of Factual Allegations, as well as any alleged violations under the CSPA or its Substantive Rules). In agreeing to the terms of this Consent Judgment Entry and Order, Defendants specifically deny any violation of any state or local statute, law, regulation, or ordinance and they continue to deny any wrongdoing as alleged by Plaintiff. Defendants further deny that they are liable for, or were aware, approved, or otherwise ratified, any alleged acts of any third parties. Defendants expressly state that they enter into this Consent Judgment Entry and Order, not as an acknowledgement or acceptance of liability, but solely to avoid the expense, risk and uncertainty of trial.

BACKGROUND

1. Defendant GVN Michigan, Inc., also doing business as Global Vacation Network and GVN ("GVN Michigan") is a Delaware corporation registered with the Ohio Secretary of State's Office, with its principal place of business located at 2849 Executive Drive #100, Clearwater, Florida 33762.
2. Defendant GVN Cleveland, LLC, also doing business as Preferred Access Ohio, ("GVN Cleveland") is a Kansas limited liability company registered with the Ohio Secretary of State's Office, with its principal place of business located at 5360 College Boulevard, Suite 200, Overland Park, Kansas 66211.
3. Defendants were contractually authorized retail distributors engaged in the sale of memberships in the travel services program known as "Global Discovery Vacations" (the "GDV Program").

4. On or about December 30, 2010, Defendant GVN Michigan entered into an Assurance of Voluntary Compliance ("AVC") with the Plaintiff to address allegations of unfair and deceptive acts or practices pertaining to the advertising, solicitation and sale of memberships in the GDV Program. Defendant GVN Michigan expressly denied any and all allegations of wrongdoing in the 2010 AVC.
5. In the 2010 AVC, Defendant GVN Michigan agreed to comply with all applicable Federal and Ohio laws, including but not limited to, the CSPA, R.C. 1345.01 et seq. and its Substantive Rules, O.A.C. 109:4-3-01 et seq.
6. In the 2010 AVC, Defendant GVN Michigan acknowledged and agreed that the terms of the AVC applied to GVN Michigan, and to any other businesses operated by GVN Michigan, its principals, officers, directors, agents, servants, representatives, salespersons, employees, instructors, independent contractors, successors and assigns, jointly and severally.

PLAINTIFF'S STATEMENT OF FACTUAL ALLEGATIONS

7. Defendants are and were, at all times relevant hereto, engaged directly or indirectly through third parties in the business of advertising, soliciting, offering for sale and selling memberships in the GDV Program to consumers in Ohio.
8. Defendants engaged third parties to advertise and solicit Ohio consumers to attend sales presentations where Defendants offered and sold memberships in the GDV Program.
9. Defendants engaged third parties to provide marketing and advertising services as a means to identify qualified consumers to attend sales presentations in which memberships in the GDV Program were offered.

10. Defendants engaged the following independent contractors or third parties to provide marketing and advertising services:
 - A. Integrated Marketing Solutions, Inc. of Scranton, PA 18509;
 - B. CDA Consulting, LLC of Whitehouse, TX 75791;
 - C. Vacation Tours USA of Port Orange, FL. 32129;
 - D. Gunn Marketing Group, Inc. of Tarpon Springs, FL.34688;
 - E. Passport Holiday of Daytona Beach, FL. 32118;
 - F. N3 Marketing, LLC of Powell, OH 43065; and
 - G. Impact International Marketing of Lake Havasu City, AZ 86403.
11. Third parties engaged by Defendants sent advertisements or notifications to consumers by mail that contained offers or claims including, but not limited to the following:
 - A. “Congratulations! Our promotional department shows that you have been selected to receive a Complimentary stay at an Indoor Water Park of Your Choice in Columbus or Sandusky for up to 3 days and 2 nights including WaterPark passes for 4 guests. (package Retail Value \$650-\$850). Our records indicate that by responding within 48 hours you will also receive a \$100 Restaurant dining card.”
 - B. “PICK-UP...Package # 1207-4838-0089, Dear Mr. *(name redacted)*... Call now at 888-986-8169 to arrange pick up. Monday-Friday 9am to 9pm, Saturday from 9am to 1pm (EST). Package Contents: New Android 4.0 Touchpad Tablet with Camera. You may also be eligible to receive a \$100 Restaurant.com card. Call for Pick-up at 888-986-8169.”
 - C. “PARCEL PICK-UP NOTICE...Package # 1244-1910-9478...Dear *(name redacted)* Call our center now at 888-845-8768 to schedule pick-up. Monday-Friday 9:00am to 9:00pm. Saturday 9:00am to 3:00pm...We can hold this package for ONLY 72 HOURS. Call for pick-up 888-845-8768.”
 - D. “Congratulations! You have been selected to receive an 8 Day/ 7 Night Cruise for 2 with an outside cabin, leaving from any major port in the U.S. And 2 round trip airfares leaving from or going to any major airport in the continental U.S. PLUS A \$50 VACATION CASH CARD that’s powered by priceline.com.”
 - E. “US AIRLINES... Dear *(name redacted)* I am pleased to inform you that you have qualified for an award of 2 roundtrip airline tickets. Congratulations. These tickets are valid for travel anywhere in the Continental U.S. from any major international airport. The retail value of this award is up to \$1,398. Certain restrictions apply.”

- F. “Dear (*name redacted*) We would like to invite your household to participate in our marketing study and promotion. For your participation, you will pick up a **FREE Android Tablet Computer** on us. Once you have received and tested your Android Tablet, we ask that you complete the brief survey that we have enclosed and return it to us. Whether you complete the survey or not, the **Android Tablet is yours to keep**. You are under **no obligation** to pay, purchase or subscribe to anything to receive your tablet. There is no cost for shipping and handling, you simply pick it up. Please give us a call, toll-free, at **(888) 449-6417**. Your package code is 1253-4055-9691.”
12. Third parties engaged by Defendants solicited consumers using such language as “congratulations,” “you have been selected to receive,” and “you have qualified for an award.” However, consumers had not entered a contest and had not been “specially selected” as neither the third parties nor the Defendants were operating a contest. Instead, all consumers the Defendants deemed financially qualified to purchase a travel membership and who sat through a sales presentation were offered information on how to claim the advertised prize, gift or thing of value.
13. Third parties engaged by Defendants solicited consumers over the telephone or through the mail and failed to disclose the identity of the company on whose behalf the advertised offer was made.
14. Third parties engaged by Defendants solicited consumers over the telephone or through the mail and failed to disclose that the prize, gift or thing of value would not be available for consumers to pick up at Defendants’ business locations, but rather consumers would be required to complete and submit claim forms to third parties to obtain the prize, gift or thing of value.
15. Third parties engaged by Defendants solicited consumers through the mail using advertisements that included other company names and logos, including letterhead which read “US AIRLINES” or “FLY US AIRLINES” which provided some consumers the

- false impression that Defendants' promotions were affiliated with or sponsored by those other companies or a major airline carrier.
16. Third parties engaged by Defendants notified consumers that they were selected or eligible to receive a prize, gift or thing of value without disclosing, at the time of the notification, that receipt was conditioned upon consumers providing a copy of their driver's license or other picture identification.
 17. Third parties engaged by Defendants notified consumers that they were selected or eligible to receive a prize, gift or thing of value without clearly and conspicuously disclosing, at the time of the notification, that receipt was conditioned upon attending a ninety minute sales presentation where an attempt would be made to induce them to purchase travel memberships.
 18. Consumers who called the telephone number on the mail solicitations to claim the prize, gift, or thing of value described in the advertisement were informed that receipt was conditioned upon attending a ninety minute "presentation" or "open house" about discount travel services at the Defendants' business locations.
 19. Defendants subjected some consumers to sales presentations that lasted longer than ninety minutes before they would provide information on how to claim the prizes, gifts, goods or services.
 20. Defendants solicited consumers, directly, or indirectly through third parties, without clearly and conspicuously disclosing material exclusions, reservations, limitations, or conditions of the offers.
 21. Defendants solicited consumers, directly, or indirectly through third parties, engaged by Defendants notified consumers that they were selected or eligible to receive a prize, gift

or thing of value without disclosing, at the time of the notification, that receipt was conditioned upon the payment of fees or charges.

22. Defendants solicited consumers, directly, or indirectly through third parties, notified consumers that they were selected or eligible to receive a prize, gift or thing of value without disclosing, at the time of the notification, the market value of the prize, gift or thing of value.
23. Defendant GVN Michigan failed to comply with the Compliance Provisions of the AVC, Paragraphs 13 to 24.

CONCLUSIONS OF LAW

24. Plaintiff, State of Ohio, by and through Attorney General Michael DeWine, was a proper party to file this action in the public interest pursuant to the authority vested in him by the CSPA, R.C. 1345.01 et seq.
25. This Court has subject matter jurisdiction over this action pursuant to the CSPA, R.C. 1345.04, as consumer transactions subject to R.C. 1345.01 *et seq.*, gave rise to the claims in the Complaint. Defendants are “suppliers” as defined by R.C. 1345.01(C).
26. This Court has personal jurisdiction over each Defendant, pursuant to R.C. 2307.382, as the Defendants’ business transactions with residents of Ohio gave rise to the cause of action.
27. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3) as the Defendants conducted activity in Franklin, and other counties in the State of Ohio, which gave rise to the claims for relief.
28. A supplier commits unfair and deceptive acts and practices in violation of CSPA, R.C. 1345.02(A) and O.A.C. 109:4-3-02(A)(1) by, directly or indirectly, making offers in written or printed advertising or promotional literature without stating clearly and

conspicuously, in close proximity to the words stating the offers, any material exclusions, reservations, limitations, modification or conditions.

29. A supplier commits unfair and deceptive acts and practices in violation of CSPA, R.C. 1345.02(A) and O.A.C. 109:4-3-06(A)(2) by, directly or indirectly, notifying consumers or prospective consumers that they were selected or eligible to win prizes or receive things of value, without clearly and conspicuously disclosing at the time of the prize notification, that the receipt of the prizes or things of value were conditioned upon the consumers' listening to or observing sales promotional efforts and that attempts would be made to induce the consumers or prospective consumers to undertake monetary obligations.
30. A supplier commits unfair and deceptive acts and practices in violation of CSPA, R.C. 1345.02(A) and O.A.C. 109:4-3-06(A)(2) by, directly or indirectly, notifying consumers or prospective consumers that they were selected or eligible to win prizes or receive things of value, without clearly and conspicuously disclosing at the time of the prize notification, the market value of the prize or thing of value.
31. A supplier commits unfair and deceptive acts and practices in violation of CSPA, R.C. 1345.02(A) and O.A.C. 109:4-3-06(D)(2) by, directly or indirectly, notifying consumers or prospective consumers that they were selected or eligible to win prizes or receive things of value, when the receipt of the prizes or things of value were conditioned upon the payment of service charges, handling charges, mailing charges, or other similar charges.
32. A supplier commits unfair and deceptive acts and practices in violation of CSPA, R.C. 1345.02(A) and O.A.C. 109:4-3-06(D)(3) by, directly or indirectly, notifying consumers or prospective consumers that they won prizes, were selected or eligible to win prizes or

receive things of value, without clearly and conspicuously disclosing any and all conditions necessary to win the prizes or receive the things of value.

33. A supplier commits unfair and deceptive acts and practices in violation of CSPA, R.C. 1345.02(B)(9) by, directly or indirectly, representing that they had sponsorship, approval or affiliations that they did not have. These acts or practices have been previously determined by an Ohio court to violate R.C. 1345.01 et seq.
34. A supplier commits unfair and deceptive acts and practices in violation of CSPA, R.C. 1345.02(A) by failing to comply with terms and conditions of an Assurance of Voluntary Compliance previously entered into pursuant to R.C. 1345.06(F)(2). These acts or practices have been previously determined by an Ohio court to violate R.C. 1345.01 et seq.

ORDER

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

- A. Plaintiff's request for a Declaratory Judgment is GRANTED. It is therefore DECLARED that the acts and practices described in the Plaintiff's Statement of Factual Allegations violate the CSPA, R.C. 1345.01 et seq., in the manner set forth in the Conclusions of Law.
- B. Pursuant to R.C. 1345.07, Defendants, doing business under the names GVN Michigan, Inc., Global Vacation Network, GVN, GVN Cleveland, LLC, Preferred Access Ohio or any other name(s), their agents, partners, representatives, salespersons, employees, successors and assigns, including any person or entity which purchases, acquires, or otherwise receives any interest (whether legal, equitable, contractual, or otherwise) in the Defendants' businesses and continues to operate the businesses, in connection with any

consumer transaction, are PERMANENTLY ENJOINED within the State of Ohio from committing any unfair, deceptive or unconscionable acts or practices which violate the CSPA, R.C. 1345.01 et seq. and its Substantive Rules, O.A.C. 109:4-3-01 et seq. including, but not limited to, the specific acts and practices described herein.

- C. The Attorney General of Ohio, Michael DeWine, filed this action in the public interest on behalf of the State of Ohio under the authority vested in him by R.C. 1345.07. Therefore, Defendants, jointly or severally, shall make a payment to the Attorney General's Consumer Protection Enforcement Fund in the amount of Seventy-Five Thousand Dollars (\$75,000.00) upon entry of this Consent Judgment.
- D. Monetary provisions of this Order shall be paid by Defendants directly to the Attorney General's Office by certified cashier's check or money order, made payable to the "Ohio Attorney General's Office," and mailed or delivered to:

Consumer Protection Section
Ohio Attorney General's Office
Attn: Compliance Officer
30 E. Broad Street, Floor 14
Columbus, Ohio 43215

- E. Defendants to pay all court costs associated with this matter as calculated by the Franklin County Clerk of Courts

IT IS SO ORDERED.

(Signature and seal affixed on separate page)

JUDGE WILLIAM WOODS

AGREED TO BY:

MICHAEL DEWINE
Ohio Attorney General

/s/ Erin B. Leahy

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Franklin County Court of Common Pleas

Date: 04-15-2016
Case Title: OHIO STATE ATTORNEY GENERAL MICHAEL DEWI -VS- GVN
MICHIGAN INC ET AL
Case Number: 14CV010397
Type: CONSENT JUDGMENT

It Is So Ordered.

A handwritten signature in black ink, appearing to read "W H Woods", is written over a circular embossed seal. The seal contains the text "CLERK OF COURTS" and "FRANKLIN COUNTY OHIO".

/s/ Judge William H. Woods