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COURT OF COMMON PLEAS
TUSCARAWAS COUNTY, OHIO

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JEANNE M. STEPHEN
CLERK OF COURTS

**IN THE COURT OF COMMON PLEAS
TUSCARAWAS COUNTY, OHIO
GENERAL TRIAL DIVISION**

STATE OF OHIO

Plaintiff,

vs.

MICHAEL LOHR, et al.

Defendants.

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Case Number: 2017 CV 04 0284

Judge Elizabeth Lehigh Thomakos

JUDGMENT ENTRY

This matter came before the Court to be heard upon receipt of the letter from Assistant Attorney General Jennifer L. Mildred and the Agreed Order on Debtors' Motion to Impose Stay filed in U.S. Bankruptcy Court, N.D. Ohio, Case No. 17-51554, attached hereto.

On September 13, 2017, this Court granted default judgment, subject to a damages hearing to be held November 9, 2017.

The Court **FINDS** that the Defendants are natural people who are the owners and operators of Firebird Waste & Recycling, Inc.

The Court **FINDS** that the Defendants engaged in the business of effecting "consumer transactions" primarily for a personal, family, or household use within the meaning of R.C. 1345.01(A), to wit by soliciting consumers either directly or indirectly for trash and recycling services within the meaning of R.C. 1345.01(A).

The Court **FINDS** that the Defendants at all times pertinent hereto controlled and directed the business activities and sales conduct of Firebird Waste & Recycling, Inc., including the conduct giving rise to the violations described herein.

The Court **FINDS** that the Defendants accepted monetary deposits from consumers for trash and recycling services and then failed to deliver the services within eight weeks.

The Court **FINDS** that the Defendants have refused to refund consumers' deposits or payments despite consumers' requests for refunds.

The Court **FINDS** that the actions of Defendants, described above, have occurred in the State of Ohio, in Tuscarawas County and other counties in Ohio, and, as set forth below, are in violation of the Consumer Sales Practices Act, R.C. 1345.01 et seq. ("CSPA") and its substantive rules, specifically, the Failure to Deliver Rule, O.A.C. 109:4-3-09(A).

The Court **FINDS** that jurisdiction over the subject matter of this action lies with the Court pursuant to R.C. 1345.04 of the CSPA.

The Court **FINDS** that this Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(2) and (3), in that Tuscarawas County, Ohio is where the Defendants' principal place of business is/was located and where Defendants conducted some of the transactions described herein.

The Court **FINDS** that the Ohio Attorney General, acting on behalf of the State of Ohio and in the public interest, is the proper party to this action by virtue of authority vested in him by R.C. 1345.07.

The Court **FINDS** that the Defendants are "suppliers," as that term is defined in R.C. 1345.01(C), as they engaged in the business of effecting "consumer transactions" primarily for personal, family or household use within the meaning of R.C. 1345.01(A) to wit by soliciting consumers either directly or indirectly for trash and recycling services for a fee.

The Court **FINDS** that the Defendants committed unfair and deceptive acts and practices in violation of the Failure to Deliver Rule, O.A.C. 109:4-3-09(A) and the CSPA, R.C. 1345.02(A), by accepting money from consumers for goods or services and then permitting eight weeks to elapse without delivering trash and recycling services, making full refunds, advising the consumer of the duration of an extended delay and offering to send a refund within two weeks if so requested, or furnishing similar goods or services of equal or greater value as a good faith substitute.

Decision

It is therefore **ORDERED** that Plaintiff's request for a Declaratory Judgment shall be **granted**, and it is therefore declared that each act or practices set forth above violates the CSPA.

It is further **ORDERED** the Defendants, their agents, servants, employees, successors or assigns, and all persons acting in concert and participation with them, directly or indirectly, through any corporate device, partnership, or other association, under these or any names, shall be permanently enjoined from engaging in the acts and practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 et seq.

It is further **ORDERED** that the Defendants shall be enjoined from engaging in business as suppliers in any consumer transactions in the State of Ohio, until such time as they have satisfied all monetary obligations determined at the future damages hearing.

It is further **ORDERED** that this Court shall retain jurisdiction to determine damages in the event that the Defendant's bankruptcy case is dismissed or converted to Chapter 7 bankruptcy case.

It is further **ORDERED** that the hearing currently scheduled for November 9, 2017 at 10:00 a.m. shall be cancelled.

It is further **ORDERED** that the Clerks shall close the case file and remove it from the Court's pending docket.

It is further **ORDERED** that costs shall be assessed to the Defendants.

IT IS SO ORDERED.


Judge Elizabeth Lehigh Thomakos

Dated: October 30, 2017

cc: Jennifer Mildren, Esq.
Michael Lohr
Shirley Bennett-Lohr
David Mucklow, Esq.
Court Administrator

ELT: ajjr