

CV14822249

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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

CLERK OF COURTS
CUYAHOGA COUNTY

STATE OF OHIO, ex rel.
MICHAEL DEWINE,

Plaintiff,

v.

MIDWEST RETAIL LLC, et al.,

Defendants.

) CASE NO. CV-14-822249

) JUDGE PAMELA A. BARKER

) CONSENT JUDGMENT

PREAMBLE

After discussion and negotiation between all parties to this matter, Plaintiff, the Attorney General of Ohio, and Defendants Midwest Retail LLC and Chad Bowerman (collectively referred to as "Defendants") have agreed to resolve issues involving violations of the Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq. and the Ohio Administrative Code Substantive Rules, O.A.C. 109:4-3-01 et seq. All parties are desirous of resolving this matter and have agreed to settle and resolve the matters contained herein. By signing this Consent Judgment and Agreed Final Entry and Order, Defendants, individually and in their corporate capacity, waive service and submit to the personal jurisdiction of this Court and consent to the entry of this Judgment. Defendants also consent to the Court's finding of the following facts and conclusions of law, to the imposition of this Order and to the rights of Plaintiff to enforce this Order.

FINDINGS OF FACT

1. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Michael DeWine, brings this action in the public interest and on behalf of the State of Ohio under the authority vested in him by R.C. 1345.01 et seq., the Consumer Sales Practices Act.

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CONSUMER PROTECTION SECTION
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2. The actions of all Defendants, described herein, occurred in the State of Ohio, Cuyahoga County.
3. Defendant Midwest Retail LLC, (hereinafter "Midwest Retail" or "Defendant") is an Ohio limited liability company doing business as Storm Lake Tactical and Real Deal Guns, with its principal place of business located 159 Crocker Park Blvd. Suite 400, Westlake, Cuyahoga County, Ohio.
4. Defendant Chad Bowerman (hereinafter "Bowerman" or "Defendant") is an individual currently residing at 4205 Ashland Avenue Lorain, Ohio 44053.
5. Defendants solicited consumers from Ohio, the United States, and throughout the world by offering for sale and selling products for shooting, reloading, gunsmithing, shooting technique and instruction, tactical products, shooting accessories, and firearm accessories.
6. On numerous occasions Defendants accepted payments from consumers for products ordered through their website and failed to deliver the ordered products to consumers or provide refunds.

CONCLUSIONS OF LAW

7. The Court has jurisdiction over the subject matter, issues, and parties to this Consent Judgment and venue is proper.
8. The Ohio Attorney General, acting on behalf of the citizens of Ohio and in the best interest of this State, is the proper party to commence these proceedings under authority of the Consumer Sales Practices Act, R.C. 1345.01 *et seq.*, and by virtue of his common law authority to protect the interests of the citizens of the State of Ohio.
9. Defendants are "suppliers" as defined in R.C. 1345.01(C) because Defendants were at all times relevant hereto engaged in the business of effecting "consumer transactions" by

soliciting and/or selling goods or services to consumers in the State of Ohio for purposes that were primarily for personal, family or household use, within the meaning specified in R.C. 1345.01(A).

10. The business practices of the Defendants, as described herein and in Plaintiff's Complaint, are governed by the Consumer Sales Practices Act, R.C. 1345.01 *et seq.*, and its Substantive Rules, O.A.C. 109:4-3-01 *et seq.*, adopted pursuant to R.C. 1345.05.
11. The Defendants acts and practices occurred in the State of Ohio.
12. Defendants committed unfair and deceptive acts and practices in violation of the Failure to Deliver Rule, O.A.C. 109:4-3-09(A)(1), and the Consumer Sales Practices Act, R.C. 1345.02(A), by accepting payments from consumers for products ordered through their website and failing to deliver the ordered products to consumers or provide refunds.

ORDER

For the purposes of affecting this CONSENT JUDGMENT AND AGREED ENTRY AND ORDER, it is hereby ORDERED, ADJUDGED, AND DECREED that:

- I. Plaintiff's request for a Declaratory Judgment is GRANTED, and it is therefore DECLARED that the acts and practices enumerated in the Conclusions of Law set forth above violate the Consumer Sales Practices Act, R.C. 1345.01 *et seq.*
- II. Defendants Midwest Retail LLC and Chad Bowerman, under these or any other names, their agents, servants, representatives, salespersons, employees, successors and assigns, and all persons acting in concert and participation with them, directly or indirectly, through any corporate device, partnership, or association, in connection with any consumer transaction, are hereby PERMANENTLY ENJOINED from:
 - a. Violating the terms of this Consent Judgment;
 - b. Committing unfair, deceptive or unconscionable acts or practices which violate

R.C. 1345.02 or 1345.03, including, but not limited to, those unfair and deceptive acts or practices identified and enumerated in this Consent Judgment.

- III. Defendants Midwest Retail LLC and Chad Bowerman are jointly and severally liable to the consumers identified in Addendum A for the amounts listed. Defendants shall, therefore, pay restitution to these consumers in the amount of Three Thousand Twenty-eight and 71/100 Dollars (\$3,028.71).
- IV. Defendants are assessed, jointly and severally, a civil penalty of Fifteen Thousand Dollars (\$15,000), pursuant to R.C. 1345.07(D). Three Thousand Twenty-eight and 71/100 Dollars (\$3,028.71) of the Fifteen Thousand Dollar civil penalty shall be suspended and the Attorney General shall refrain from attempting to collect that portion of the civil penalties so long as Defendants remain in full compliance with all provisions of this Consent Judgment. Should either Defendant fail to comply with all the terms of this Consent Judgment, then Defendants shall also pay, and the Attorney General shall be entitled to collect, the full amount of the civil penalty, including the suspended portion.
- V. Defendants shall pay the restitution and civil penalties directly to the Attorney General in equal monthly installments of two-hundred and fifty Dollars (\$250) for sixty (60) months, with the first payment due the first day of the month beginning after the "Trigger Date," subsequent payments due on the first of every month, and the last payment due on the first day of the sixtieth month following the first payment. The "Trigger Date" is the date the federal bankruptcy court managing Defendant Bowerman's bankruptcy either lifts its automatic stay or dismisses the matter. Payments shall be made by money order or cashier's check, made payable to the "Ohio Attorney General's Office," and mailed to:

Restitution Compliance Officer
Consumer Protection Section
30 E. Broad Street, Floor 14

Columbus, Ohio 43215

- VI. The Attorney General shall distribute consumer restitution in accordance with Addendum A. The Attorney General shall distribute the civil penalties according to R.C. 1345.07(G), except that no money shall be paid to the Franklin County Treasurer or the Consumer Protection Enforcement Fund until all consumer restitution has been collected and distributed. Should the Defendants fail to meet any of their obligations under this Consent Judgment and the Attorney General becomes entitled to collect the full amount of the civil penalty, including the Three Thousand Twenty-eight and 71/100 Dollars suspended portion (\$3,028.71), then the Attorney General shall suspend any payment transfers to the Franklin County Treasurer or the Consumer Protection Enforcement Fund until the Attorney General has collected from Defendants, and distributed to the consumers in Addendum A, the remainder of what the Defendants owe the Consumers under this Consent Judgment.
- VII. If the Defendants fail to timely deliver any payment, either to the federal Bankruptcy Trustee in accordance with the federal Bankruptcy Court's sixty-month payment plan or to the Attorney General according to the terms of paragraph VI, then all remaining payments, including any suspended portion of the restitution and civil penalties, shall immediately become due and payable.
- VIII. Defendants shall not represent directly or indirectly, or in any manner whatsoever, that the Court or the Ohio Attorney General has sanctioned, condoned, or approved any part or aspect of Defendants' business operations.
- IX. In the event the Ohio Attorney General must initiate legal action or incur any costs to compel Defendants to abide by the Orders contained herein, Defendants shall be liable to the Ohio Attorney General for any such costs including, but not limited to, a reasonable

sum for attorney fees.

- X. This Consent Judgment shall not be deemed to preclude any investigation or enforcement action against Defendants for occurrences which may transpire after the filing of this Order, under any legal authority granted to the Ohio Attorney General.
- XI. Defendants shall pay all court costs associated with this matter.
- XII. Failure to comply with the terms of this Consent Judgment shall constitute contempt of court and subject Defendants to additional civil penalties as well as additional statutory damages of not more than Five Thousand Dollars for each day pursuant to R.C. 1345.07(A)(2).
- XIII. This Court shall retain jurisdiction to enforce compliance with the Consent Judgment.

Date: 11-6-14

Pamela Barker
Judge Pamela Barker

APPROVED:
Michael DeWine
Attorney General
By: [Signature]

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CUYAHOGA COUNTY

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[Signature]
Chad Bowerman & Midwest Retail LLC
4205 Ashland Avenue
Lorain, Ohio 44053
Defendants

/s/ Justin C. Miller, Esq.
Justin C. Miller (0083276)
3443 Medina Road Suite 101-E
Medina, Ohio 44256
Counsel for Defendant

THE STATE OF OHIO } I, THE CLERK OF THE COURT
Cuyahoga County } SS. OF COMMON PLEAS WITHIN
AND FOR SAID COUNTY.
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY
TAKEN AND COPIED FROM THE ORIGINAL Pages
Nov 7, 2014
NOW ON FILE IN MY OFFICE.
WITNESS MY HAND AND SEAL OF SAID COURT THIS 13TH
DAY OF Nov A.D. 2014
CUYAHOGA COUNTY CLERK OF COURTS
By [Signature] Deputy

ADDENDUM A

Name	Address	Restitution
Richard Anneke	3752 Stone Ridge Court NE Rochester, MN 44052	\$524.00
Nate Ark	135 Cabana Way Crestview, FL 32536	\$129.99
Elizabeth Crouch	182 Edwards Road Valley Falls, KS	\$71.99
Jeff Girton	906 Oatfield Road San Antonio, TX 78254	\$249.99
Thomas Hanson	218 Arnica Drive Watertown, MN	\$43.99
Michael Furci	180 Cooper Foster Park Road Lorain, OH 44053	\$700.00
Thomas Kelly	17500 Mill School Road Guysville, OH 45735	\$410.00
Christopher Lee	1212 Whimsical Way Sevierville, TN 37876	\$14.24
Tyler Porter	113 Laurel Lane Hendersonville, TN 37075	\$6.39
Randolph Robinson	2002 N. Link Street Palestine, TX 75803	\$373.00
Rich Sanders	8515 Linda Lane Little Rock, AR 72227	\$25.00
Larry Shepherd	1212 N. Jerrick Road Belle Plaine, KS 67013	\$265.00
William Thompson	9103 Big Geronimo Street San Antonio, TX 78254	\$79.99
David Weisgerber	307 10th Avenue NE Hickory, NC 28602	\$135.13
		\$3,028.71