

ENTERED

APR 01 2015



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Hon. Leslie Ghiz

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

FOR COURT USE ONLY	
S. C. Line #:	8

STATE OF OHIO ex rel. ATTORNEY
GENERAL MICHAEL DEWINE

Plaintiff,

v.

QUEENCITY SCRIPT CARE LLC,
et al.

Defendants.

Case No. A 1305998

JUDGE GHIZ

AGREED CONSENT JUDGMENT
ENTRY AND ORDER

ENTERED

APR- 1 2015

PREAMBLE

This matter came to be heard upon the filing of a Complaint by the Ohio Attorney General alleging that Defendants Queencity Script Care LLC and Thomas Fenske ("Defendants") violated the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 *et seq.* and its Substantive Rules. By signing this Consent Judgment, the Defendants waive service of process, submit to the personal jurisdiction of this Court and consent to the entry of this Consent Judgment pursuant to R.C. 1345.07(F).

The Defendants hereby consent to the Court's finding of the following facts and conclusions of law, to the imposition of this Consent Judgment and to the rights of Plaintiff to enforce this Consent Judgment.

FINDING OF FACTS

1. Defendant Queencity Script Care LLC ("QCSC LLC") has a principal place of business at 10901 Reed Hartman Hwy, Suite 319, Blue Ash, Ohio 45242.
2. Defendant Thomas Fenske is the registered agent for Defendant QCSC LLC.

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CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

14. Defendants charged consumers \$30- \$41 for a monthly fee for this service. The service was to assist in applying for the Patient Assistance Programs. The service included the following: a sit down interview with the client to do a needs and cost analysis to see if the client would qualify or if Defendants' service would be of value to the client; entering the client information into Defendants' software program; printing off secured applications for each medication and their respective drug manufacturer; sending all appropriate paperwork to clients' doctor's offices for signatures and prescriptions; making sure the doctors' offices sent paperwork back to Queencity Script Care within 24-48 hours; sending all required forms and documents, along with applications, to the respective drug manufacturer; follow-up with the drug manufacturer(s) within 72 hours; tracking the orders; notifying the client when orders were being shipped; processing refills every 90-180 days; and processing re-enrollments at the end of the year.
15. Defendants offered a guarantee that they would refund a consumer's monthly membership fee if a consumer did not receive medication and was determined to be ineligible for the Patient Assistance Program(s).
16. Defendants made unauthorized debits from various consumer bank accounts.
17. Some consumers were forced to close their bank accounts because Defendants repeatedly debited their accounts without authorization.

CONCLUSIONS OF LAW

1. The Court has jurisdiction over the subject matter, issues and parties to this action and venue is proper.
2. The business practices of Defendants, as described herein and in Plaintiff's Complaint, are governed by the CSPA, R.C. 1345.01 et seq.
3. 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 this action under the authority of the CSPA, R.C. 1345.07, and by virtue of his authority to protect the interests of the citizens of the State of Ohio.
4. Defendants are "suppliers," as that term is defined in R.C. 1345.01(C), as they engaged in the business of effecting "consumer transactions" by accepting money from consumers for help with obtaining prescription drugs, within the meaning of R.C. 1345.01(A).
5. A Supplier commits 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 making shipment or delivery of the goods or services ordered, making a full refund, 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.
6. A Supplier commits unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A) and R.C. 1345.02(B)(10), by falsely representing that a consumer transaction involves a warranty.

7. A Supplier commits unconscionable acts and practices in violation of the CSPA, R.C. 1345.03(A), as set forth in R.C. 1345.03(B)(1) and (B)(2) by:
 - a. Knowingly taking advantage of the inability of a consumer to protect his/her interest because of the consumer's physical or mental infirmities;
 - b. Knowingly charging a price substantially in excess of the price in which similar property or services were readily obtained in similar consumer transactions by like consumers.
8. Defendants committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by repeatedly debiting consumers' bank accounts without authorization from the consumers.
9. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

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 enumerated in Plaintiff's Complaint violate the CSPA, R.C. 1345.01 et seq., and the Substantive Rules enacted thereunder, in the manner set forth therein.
- (2) It is further ORDERED that the Defendants or their agents, representatives, salespersons, employees, successors, assigns, and all persons acting on behalf of Defendants, directly or indirectly, through any corporate or private device, partnership or association, including any person or entity which purchases any interest in the business and continues

to operate the business, in connection with any consumer transaction, are permanently enjoined from committing any act or practice in violation of the CSPA.

- (3) Pursuant to R.C. 1345.07(D), Defendants are **ORDERED** to pay \$3,434.86 to Plaintiff to be used at the sole discretion of the Plaintiff for any purpose including, but not limited to, payment to the Consumer Protection Enforcement Fund, consumer damages, investigative costs, or attorney fees. Payment shall be made in accordance with the provisions noted in Paragraph (6) below.
- (4) It is further ORDERED that the Defendants are assessed a Civil Penalty of \$15,000. The Civil Penalty is suspended upon strict compliance with the terms of this Consent Judgment and the CSPA.
- (5) It is further ORDERED that the Defendants shall pay consumer restitution in the amount of \$2,565.14 to the Attorney General to be distributed to consumers who have filed consumer complaints against the Defendants with the Attorney General at the Attorney General's sole discretion. (Attachment A)
- (6) A payment of \$1,000 is due upon the execution of this Consent Judgment and shall be submitted to the Attorney General's Office in the form of a certified check or money order, made payable to "The Ohio Attorney General's Office" and shall be mailed to:

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

The remaining amount of \$5,000 shall be paid as follows:

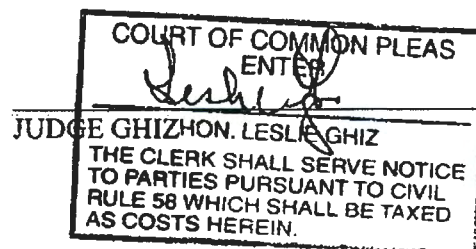
April	2015	750
May	2015	500
June	2015	100
July	2015	100

August	2015	100
September	2015	100
October	2015	100
November	2015	100
December	2015	100
January	2016	100
February	2016	100
March	2016	100
April	2016	100
May	2016	100
June	2016	100
July	2016	100
August	2016	100
September	2016	100
October	2016	100
November	2016	100
December	2016	100
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June	2017	100
July	2017	100
August	2017	100
September	2017	100
October	2017	100
November	2017	100
December	2017	100
January	2018	100
February	2018	100
March	2018	100
April	2018	100
May	2018	100
June	2018	100
July	2018	50

The monthly payments shall be made by Defendants, in the form of a certified check or money order, made payable to "The Ohio Attorney General's Office" and received by the Attorney General at the address listed in Paragraph (5) above, on or before the last day of each month.

- (7) It is further ORDERED that if the Defendants fail to timely deliver any payment to the Attorney General's Office or perform any obligation due hereunder, all amounts, including the \$15,000.00 suspended civil penalty referenced in Paragraph (4) above, shall immediately become due and payable hereunder. As a further means of ensuring compliance with this Consent Judgment, if Defendants fail to timely deliver any payment or perform any obligation due hereunder, Defendants shall be ENJOINED from acting as a Supplier in the prescription assistance business in the State of Ohio until the final judgment amount is satisfied.
- (8) It is further ORDERED that the acceptance of any payment by Plaintiff subsequent to the time it is due or the failure of Plaintiff to insist on strict performance of any order contained within this Consent Judgment, including, but not limited to, the obligation created by the acceleration provision in Paragraph (7) of this Consent Judgment, shall not be construed as a waiver of any of the obligations created by this Consent Judgment.
- (9) It is further ORDERED that in the event the Ohio Attorney General must initiate legal action or incur any costs to compel the Defendants to abide by this Consent Judgment, upon proof of the violation, the Defendants shall be liable to the Ohio Attorney General for any such costs associated with proving that violation, including, but not limited to, a reasonable sum for attorneys' fees.

- (10) It is further ORDERED that the Defendants shall pay all court costs associated with this matter.
- (11) Defendants shall be held jointly and severally liable for all amounts due under this Consent Judgment.
- (12) By execution of this Consent Judgment and following a full and complete payment to the Attorney General and completion of the restitution plan, the Attorney General releases and forever discharges Defendants from all claims under the CSPA the Attorney General could have asserted against Defendants prior to the execution of this Consent Judgment.
- (13) This Court shall retain jurisdiction to enforce compliance with this Consent Judgment.




SIGNATURES

Accepted:

MICHAEL DEWINE
ATTORNEY GENERAL

BY:


Eric M. Gooding (0086555)
Assistant Attorney General
Consumer Protection Section
441 Vine Street, 1600 Carew Tower
Cincinnati, Ohio 45202
(513) 852-1527
(877) 381-1751 (fax)
Eric.Gooding@ohioattorneygeneral.gov

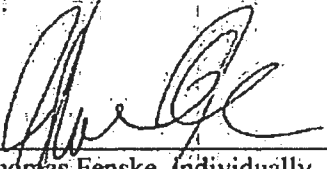
Date:

3/30/15

Counsel for the Ohio Attorney General

Accepted:

BY:


Thomas Fenske, individually,
and on behalf of Queencity Script Care LLC

Date:

3-30-15

Attachment A

Last Name	First Name	City	State	Zip	Amount
Brozouski	Michael	Urbana	OH	43078	106
Harrison	Hilda	Milford	OH	45150	90
Kidd	Doris	Connersville	IN	47331-8339	1138
Kron	Irvin	Cincinnati	OH	45255-3101	403
Palin	Francis	Cincinnati	OH	45255	560
Potts	Mildred	Cincinnati	OH	45215	95.14
Richter	James	Bethel	OH	45106	173

CERTIFICATE OF SERVICE

The Court hereby certifies that a copy of the above Entry was served upon the following by ordinary U.S. Mail on April 1, 2015:

Thomas Fenske
3989 Tramore Drive
Cincinnati, Ohio 45236

Eric M. Gooding
441 Vine Street, 1600 Carew Tower
Cincinnati, Ohio 45202