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OCT 22 2021

STATE OF OHIO  
OFFICE OF THE ATTORNEY GENERAL  
CONSUMER PROTECTION SECTION

CONSUMER PROTECTION SECTION  
PUBLIC INSPECTION FILE

STATE OF OHIO

IN THE MATTER OF;  
CRYSTAL TACKE AND  
JAMES TACKE

DOCKET NO. 589863

ASSURANCE OF VOLUNTARY COMPLIANCE

This Assurance of Voluntary Compliance (hereafter "Assurance") is entered into this 10 day of October, 2021 by Crystal Tacke and James Tacke ("Suppliers") and Dave Yost, Attorney General of the State of Ohio ("Attorney General").

**WHEREAS**, the Attorney General, has alleged that Suppliers have engaged in acts and practices which violate the Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq. and the Valentine Act, Ohio's antitrust law, R.C. 1331.01, *et seq.* (collectively, the "Claims"), has investigated Suppliers pursuant to the authority granted him pursuant to R.C. 1345.06, 1331.16, and the common law of the State of Ohio, and:

**WHEREAS**, Suppliers deny the Claims and further deny all allegations of wrongdoing asserted by the Attorney General, and:

**WHEREAS**, the Suppliers and the Attorney General for sound reasons and to avoid further costs desire to resolve fully and finally the Claims and any and all allegations of wrongdoing relating thereto, and:

**WHEREAS**, the Attorney General may, pursuant to R.C. 1345.06(F) enter into and accept an Assurance of Voluntary Compliance, and:

**WHEREAS**, this Assurance of Voluntary Compliance is an Assurance in writing by Suppliers of Suppliers' intent to conduct their business in a manner designed to comply with all

provisions of the CSPA, R.C. 1345.01 *et seq.* and its Substantive Rules, O.A.C. 109:4-3-01 *et seq.*, and to comply with all provisions of the Valentine Act, R.C. 1331.01, *et seq.*; and

**WHEREAS**, Suppliers, desiring to comply with all aspects of the CSPA, the Valentine Act, and the common law of the State of Ohio, hereby voluntarily enter into this Assurance with the Attorney General.

**NOW THEREFORE**, in consideration of the mutual promises and conditions set forth herein, the parties hereto **AGREE** as follows:

- (1) The "Effective Date" shall mean the date that is indicated on the first page of this Assurance.
- (2) By accepting this written Assurance, the Attorney General agrees to terminate the current investigation by his Consumer Protection and Antitrust Sections into Suppliers' business practices and actions occurring on or before the Effective Date of this Assurance.
- (3) By giving this written Assurance, Suppliers agree to comply with all the terms of this Assurance and to conduct their business in compliance with all applicable Ohio laws, including without limitation, the CSPA and its substantive rules, and the Valentine Act.

#### **BACKGROUND AND STATEMENT OF FACTS**

- (4) Crystal Tacke is an online seller of hand sanitizer, personal protective equipment, ("PPE") and other products, who resides at 8186 State Route 14, Streetsboro, OH 44241.
- (5) James Tacke is an online seller of hand sanitizer, PPE, and other products, who resides at 8186 State Route 14, Streetsboro, OH 44241.

- (6) Crystal Tacke and James Tacke are "suppliers" as that term is defined in R.C. 1345.01(C) as they have engaged in the business of effecting consumer transactions by selling hand sanitizer, PPE products and other products to individuals in the State of Ohio for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A).
- (7) Suppliers operated an online business between February 1, 2020 and March 24, 2020, in which they acquired a variety of products, including hand sanitizer, respirator masks, and toilet paper, and resold those products to the general public via the online platform eBay.
- (8) Early in 2020, COVID-19, a highly communicable and dangerous contagion, arrived in the United States and began to spread.
- (9) In the face of these developments and developments on a national level, Ohioans and people across the nation became increasingly concerned.
- (10) This concern prompted many citizens to bolster their personal supplies of products they believed might be needed and/or in short supply if the crisis continued to worsen. Those products included disinfecting wipes, hand sanitizers, respirator masks, and even toilet paper.
- (11) Between February 1, 2021 and March 13, 2021, Suppliers regularly purchased hand sanitizers and PPE products from various retailers such as Menards, Five Below, and Dollar General, with the intention to resell them online via eBay.
- (12) Suppliers increased the prices of the acquired hand sanitizer and PPE over pre-emergency retail costs to resell at a profit.

- (13) On March 13, 2020, the President of the United States declared a national emergency concerning COVID-19. Accordingly, Suppliers discontinued purchasing hand sanitizer and other PPE. Suppliers made their final sale of hand sanitizer and other PPE products on March 24, 2020.
- (14) On May 21, 2020, Suppliers received a subpoena from the Attorney General requesting information regarding their sale of various online items.
- (15) Suppliers timely cooperated with the Attorney General and provided requested information.
- (16) The Attorney General has alleged that Suppliers committed unfair, deceptive, and unconscionable acts and practices in violation of R.C. 1345.02 and R.C. 1345.03 by offering hand sanitizer and PPE items for sale at substantially increased prices in light of a national health crisis.
- (17) The Attorney General has alleged that Suppliers committed unconscionable acts and practices in violation of R.C. 1345.03(A), as set forth in 1345.03(B)(5), by requiring consumers to enter into transactions that Suppliers knew were substantially one-sided in favor of Suppliers.
- (18) The Attorney General has alleged that Suppliers unlawfully created and carried out unreasonable restrictions in trade and commerce and increased the price of merchandise in violation of R.C. 1331.01(C) and R.C. 1331.04 by acquiring and artificially manipulating the available supplies of personal hygiene items and offering it for sale at artificially inflated anticompetitive levels during a national health crisis.

#### COMPLIANCE PROVISIONS

- (19) Suppliers shall not violate the CSPA, R.C. 1345.01 *et seq.*, and specifically shall not engage in unfair, deceptive, or unconscionable acts or practices in violation of R.C. 1345.02 and R.C. 1345.03, by inflating the price of goods during times of widespread fear and panic.
- (20) Suppliers shall not violate the Valentine Act, R.C. 1331.01 *et seq.*, and specifically shall not create and carry out unreasonable restrictions in trade or commerce and/or prevent competition in the sale or purchase of a merchandise under R.C. 1331.01 and R.C. 1331.04, by hoarding products related to a pandemic and/or price products for sale at artificially inflated anticompetitive levels during times of widespread fear and panic.

#### GENERAL PROVISIONS

- (21) By accepting this written Assurance, the Attorney General agrees to terminate his current investigation into Suppliers' business practices occurring prior to the date of this Assurance, relative to the facts set forth in paragraphs (4) through (18) above.
- (22) Suppliers understand and agree that this Assurance applies to any related owners, principals, officers, directors, agents, representatives, salespersons, employees, instructors, independent contractors, successors and assigns.
- (23) This Assurance shall be governed by laws of the State of Ohio.
- (24) This Assurance is entered into by Crystal Tacke and James Tacke of their own free and voluntary act, upon advice of counsel and with full knowledge and understanding of the nature of the proceedings and the obligations and duties imposed by this Assurance.

- (25) This Assurance does not constitute an approval by the Attorney General of any of Suppliers' business practices, and Suppliers shall not represent directly or indirectly, or in any way whatsoever, that the Attorney General has sanctioned, condoned or approved any part or aspect of their business practices.
- (26) The parties acknowledge and agree that this Assurance does not constitute an admission of wrongdoing and/or liability on the part of Suppliers. This Assurance is made solely for the purpose of ending all controversies and Claims arising out of the facts as stated in paragraphs (4) through (18) above.
- (27) This Assurance sets forth the entire agreement between the Attorney General and Suppliers and supersedes any and all prior agreements or understandings, whether written or oral, between the parties and/or their respective counsel regarding the subject matter hereof. This Assurance may be amended by written agreement of the Parties, subject to any further requirements under state law.
- (28) The Parties hereto acknowledge that no other promises, representations, or agreements of any nature have been made or entered into by the Parties. The Parties further acknowledge that this Assurance constitutes a single and entire agreement that is not severable or divisible, except that if any provision herein is found to be legally insufficient or unenforceable, the remaining provisions shall continue in full force and effect.
- (29) Crystal Tacke and James Tacke agree to negotiate in good faith, through the Office of the Attorney General, any individual consumer complaints filed with the Ohio Attorney General's Office regarding Suppliers' conduct occurring prior to or after the

Effective Date of this Assurance, brought by consumers known at the time or discovered after entering into this Assurance.

(30) This Assurance constitutes a public record and shall be placed in the Public Inspection File pursuant to R.C. 1345.05(A)(3).

(31) This Assurance shall in no way exempt Suppliers from any other obligation imposed by law, and nothing contained herein shall relieve them of any legal responsibility for any acts or practices they engaged in other than those specifically addressed by this Assurance.

(32) Nothing in this Assurance shall in any way preclude any investigative or enforcement action(s) against Suppliers under any legal authority granted to the Ohio Attorney General:

- a. With respect to the transactions which are the subject of this enforcement action if the terms of the Assurance are not fully obeyed, or,
- b. With respect to transactions or occurrences which are not the subject of this Assurance.

#### **SETTLEMENT PROVISIONS**

(33) As part of the consideration for the termination of this investigation, Suppliers shall pay Seven Thousand Dollars (\$7,000.00) to the Attorney General's Office as reimbursement for investigative and administrative costs associated with this matter. Payment is due at the time of Execution of this Assurance. Of this payment, Three Thousand Five Hundred Dollars (\$3,500.00) shall be placed in the Ohio Attorney General's Consumer Protection Enforcement Fund, for use by the Attorney General

as provided in R.C. 1345.51; and Three Thousand Five Hundred Dollars (\$3,500.00) shall be placed in the Attorney General Antitrust Fund, as provided in R.C. 109.81.

- (34) Any payments due to the Attorney General's office under Paragraph (33) of this Assurance shall be made by delivering a certified check or money order, made payable to the "Ohio Attorney General's Office," and containing the code "OAG" in the memo line," to:

**Financial Specialist  
Consumer Protection Section  
30 E. Broad Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215**

**PENALTIES FOR FAILURE TO COMPLY**

- (35) The Attorney General may assert any claim that Suppliers have violated this Assurance in a separate civil action to enforce the terms of this Assurance against Suppliers and the Court shall apply applicable standards of law to determine damages for any subsequent violations which may include any and all remedies available to the Attorney General pursuant to R.C. 109.81, 1331.03, 1331.06, 1331.08, 1331.11, 1331.99, and 1345.07.
- (36) Pursuant to R.C. 1345.06(F), this Assurance is not, and shall not be construed as, evidence of any violation of the CSPA and its Substantive Rules, by Suppliers. Evidence of a violation of an Assurance of Voluntary Compliance, though, is prima-facie evidence of an act or practice in violation of the CSPA, R.C. 1345.01 *et seq.*, if presented after the violation in an action brought under the CSPA, R.C. 1345.01 *et seq.*



WHEREFORE, the Parties hereto affix their signatures in recognition and acceptance of the terms contained herein and warrant and represent that by affixing their signatures below they have the legal right to do so.

**SIGNATURES**

**Accepted:**

**DAVE YOST  
OHIO ATTORNEY GENERAL**

By: 

Date: 10-14-21

**Christopher Ramdeen (0095623)**

Assistant Attorney General  
30 East Broad Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215-3400  
Phone: (614) 995-1577

Christopher.Ramdeen@OhioAttorneyGeneral.gov  
*Counsel for Plaintiff, State of Ohio*

By: 

Date: 10/14/21

**James Roberts (0077733)**

Principal Assistant Attorney General  
30 East Broad Street, 26th Floor  
Columbus, Ohio 43215  
Phone: (614) 466-4328

James.Roberts@OhioAttorneyGeneral.gov  
*Counsel for Plaintiff, State of Ohio*

Accepted:

By: Crystal Tacke

Date: 10/10/2021

Crystal Tacke  
8186 State route 14  
Streetsboro OH 44241

Accepted:

By: Jared Flynn

Date: 10/8/2021

Jared Flynn  
Counsel for Supplier

Accepted:

By: James Tacke

Date: 10/6/2021

James Tacke  
8186 State route 14  
Streetsboro, OH 44241

Accepted:

By: Jared Flynn

Date: 10/8/2021

Jared Flynn  
Counsel for Supplier