

STATE OF OHIO
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION SECTION

RECEIVED
ATTORNEY GENERAL OF OHIO

MAY 03 2022

IN THE MATTER OF:

Eric Bischoff, Individually and
EL Freedom LLC
d/b/a Freedom Express
15404 County Road U
Napoleon, Ohio 43545

)
)
)
)
)
)

DOCKET NO. 589788

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

ASSURANCE OF VOLUNTARY COMPLIANCE

This Assurance of Voluntary Compliance ("Assurance") is entered into this 2nd of May, 2022, by Dave Yost, Attorney General of the State of Ohio ("Attorney General"), and Eric Bischoff and EL Freedom LLC d/b/a Freedom Express ("Suppliers"). For purposes of this Assurance, "Suppliers" means Eric Bischoff, individually, and as the owner/operator of the online seller entity known as EL Freedom LLC d/b/a Freedom Express, as well as his officers, partners, managers, successors or assigns and all persons acting in concert or participation with him, directly or indirectly, through any corporate device, partnership, association and affiliation.

WHEREAS, the Attorney General, having reasonable cause to believe that Supplier EL Freedom LLC d/b/a Freedom Express has engaged in acts and practices which violate the Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 *et seq.* and having authority to investigate the Suppliers pursuant to R.C. 1345.06 and the common law of the State of Ohio, the Attorney General has conducted an investigation pursuant to the authority granted him, 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 their 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;

WHEREAS, this Assurance of Voluntary Compliance is an Assurance in writing by the Attorney General of his intent to conclude his investigation and resolve this inquiry, and;

WHEREAS, Suppliers, desiring to comply with all aspects of the CSPA, 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 indicated on the first page of this Assurance.
2. By accepting this written Assurance, the Attorney General agrees to terminate the current investigation of Eric Bischoff and EL Freedom LLC d/b/a Freedom Express, and their 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 terms of this Assurance and to conduct business in compliance with all applicable Ohio laws, including without limitation, the CSPA, together with its substantive rules.

BACKGROUND AND STATEMENT OF FACTS

4. Eric Bischoff was an online seller of respirator masks, and other products.
5. At all relevant times, Eric Bischoff owned and operated an online Amazon store under the name EL Freedom LLC d/b/a Freedom Express, which was registered with the Ohio Secretary of State on May 8, 2019.

6. The Attorney General asserts Eric Bischoff and EL Freedom LLC d/b/a Freedom Express are “suppliers” as that term is defined in R.C. 1345.01(C) as they have been, at all times relevant herein, engaged in the business of effecting or soliciting consumer transactions, within the meaning specified in R.C. 1345.01(A), by selling respirator masks and other products, while located in the State of Ohio.
7. Suppliers operate an online business in which they acquire a variety of products and resell those products to the general public via the online platforms, such as Amazon.
8. In early 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, Ohioans and people across the nation became increasingly frightened.
10. This fear 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 to pandemic levels. Those products included respirator masks.
11. In February 2020, respirator masks could still be purchased from retailers such as Home Depot and Sherwin Williams with no significant increase in price over the price charged in January 2020.
12. Suppliers purchased these products from retailers with the intention to resell them online.
13. The Attorney General asserts Suppliers purchased respirator masks from various retailers and re-sold these products online.
14. By way of example, in January 2020, before COVID-19 created a statewide and national crisis, the average sales price for a 10-pack of 3M 8511 respirator masks sold

on Amazon was \$19.87. Suppliers sold this item through a third-party platform for an average of \$63.02 in the February-March 2020 timeframe.

15. By way of example, in January 2020, before COVID-19 created a statewide and national crisis, the average sales price for a 20-pack of 3M 8210 respirator masks sold on Amazon was \$16.05. Suppliers sold this item through a third-party platform for an average of \$84.71 in the February-March 2020 timeframe.
16. A supplier commits unfair, deceptive, and unconscionable act or practice in violation of R.C. 1345.02, as set forth in R.C. 1345.03(B)(2) when they sell or provide any product or service, including a respirator, at a price substantially in excess of the price at which similar property or services were readily obtainable in similar consumer transactions by like consumers.
17. A supplier commits an unconscionable act or practice in violation of R.C. 1345.03(A), as set forth in R.C. 1345.03(B)(5), when they require a consumer to enter into a consumer transaction on terms the supplier knew were substantially one-sided in favor of the supplier.

COMPLIANCE PROVISIONS

18. 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 under R.C. 1345.02 and R.C. 1345.03.

GENERAL PROVISIONS

19. By accepting this written Assurance, the Attorney General agrees to terminate his current investigation into Suppliers' business practices occurring prior to the

Effective Date of this Assurance, relative to Suppliers' reselling of personal products related to the COVID-19 pandemic.

20. 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.
21. This Assurance shall be governed by the laws of the State of Ohio.
22. This Assurance does not constitute an approval by the Attorney General of any of the Suppliers' business practices, and the 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.
23. This assurance does not constitute an admission of guilt or liability by the Suppliers' acceptance. As provided in R.C. 1345.06(f)(2), acceptance of an assurance may be conditioned upon an undertaking to reimburse or to take other appropriate corrective action with respect to identifiable consumers damaged by an alleged violation of CSPA, R.C. 1345.01, *et seq.* An assurance of compliance given by a supplier is not evidence of violation of CSPA, R.C. 1345.01, *et seq.* The attorney general may, at any time, reopen an investigation terminated by the acceptance of an assurance of voluntary compliance, if the attorney general believes that further proceedings are in the public interest. As provided in R.C. 1345.06, evidence of a violation of an assurance of voluntary compliance is prima-facie evidence of an act or practice in violation of this chapter, if presented after the violation in an action brought under this chapter. An assurance of voluntary compliance may be filed with the court and if approved by the court, entered as a consent judgment.

24. 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.
25. 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.
26. This Assurance constitutes a public record and shall be filed in the Public Inspection File pursuant to R.C. 1345.05(A)(3).
27. 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 have engaged in other than those specifically addressed by this Assurance.
28. 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.

PAYMENT TO THE STATE

29. As part of the consideration for the termination of this investigation, Suppliers shall, upon execution of this Agreement, pay Seven Hundred Fifty and 00/100 Dollars (\$750.00) to the Attorney General's Office as reimbursement for investigative and administrative costs associated with this matter. This payment 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.
30. Suppliers shall pay Seven Hundred Fifty and 00/100 Dollars (\$750.00) upon Suppliers execution of this Assurance. This payment shall be made by delivering a certified check or money order, made payable to the "Ohio Attorney General's Office" and containing "Consumer Protection Section" in the memo line, to:

Financial Specialist
Consumer Protection Section
30 E. Broad St., 14th fl.
Columbus, OH 43215

PENALTIES FOR FAILURE TO COMPLY

31. 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 and 1345.07.

32. In the event the Attorney General or any third party asserts a claim or cause of action that Suppliers have violated this Assurance or any other claim or cause of action relating to Suppliers' business practices, the parties agree Suppliers have not waived or abandoned any affirmative defense available to them by virtue of executing this Assurance, including the applicability of any statute of limitations defense.
33. Pursuant to R.C. 1345.06(F), this Assurance is not, and shall not be construed as, evidence of any violation by Suppliers of the CSPA or its Substantive Rules.

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: 

Timothy W. Effler
Signer ID: ZUHHZGNLR7...
Assistant Attorney General
Consumer Protection Section
30 E. Broad St., 14th Floor
Columbus, Ohio 43215
Phone: 419-245.2556
Timothy.Effler@OhioAGO.gov

Date: May 2, 2022

Accepted:

By: Robert J. Simon

Date: 5/2/2022

Robert J. Simon

Attorney for Eric Bischoff and EL Freedom LLC d/b/a Freedom Express

118 Graceland Boulevard, Suite 209

Columbus, Ohio 43214

By: Eric Bischoff

Date: 4-30-22

Eric Bischoff, Individually

By: Eric Bischoff

Date: 4-30-22

Eric Bischoff, Member

EL Freedom LLC

d/b/a Freedom Express

