

IN THE COURT OF COMMON PLEAS
GREENE COUNTY, OHIO

FILED
2022 MAY 26 PM 2:20

AJ WILLIAMS
COMMON PLEAS COURT
GREENE COUNTY, OHIO

STATE OF OHIO ex rel.
ATTORNEY GENERAL
DAVE YOST

Case No: 2021 CV 0446

Plaintiff,

JUDGE BUCKWALTER

v.

DESIREE GILLIUM PACE,
Individually and dba
FLOWERS BY DES

FINAL APPEALABLE
ORDER

Defendant.

Final Judgment Entry and Order

This matter came to be heard upon the filing of Plaintiff's Motion for Default Judgment. Plaintiff commenced this action by filing its Complaint on September 22, 2021. Defendant Desiree Gillium Pace, dba Flowers by Des ("Defendant") was properly served on October 28, 2021. Defendant failed to answer the Complaint within twenty-eight days of service and has failed to appear in this action.

Plaintiff filed a Motion for Default Judgment on November 30, 2021. This Court issued a Default Judgment Entry and Order Granting Default Judgment against the Defendant on December 13, 2021. The Default Judgment included findings of fact, conclusions of law and an order that included, but was not limited to, injunctive and declaratory relief, and ordered Defendant to pay civil penalties and restitution to all consumers injured by Defendant's conduct, in an amount to be

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ATTORNEY GENERAL OF OHIO

MAY 31 2022

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

22-05-0585

determined at a later date via affidavits. Plaintiff filed a Memorandum in Support of Damages and Civil Penalties ("Damages Memo") on May 11, 2022.

In the Damages Memo Plaintiff requests that the Defendant be ordered to pay damages to 48 Ohio consumers who suffered damages as a result of Defendant's illegal actions. In support of this request, Plaintiff submitted the affidavits from 10 consumers, whose experiences with Defendant are a representation of the experiences of all 48 damaged consumers. A summary compilation affidavit was also submitted by Consumer Protection Investigator Kelly Amabile. Investigator Amabile's affidavit detailed the work she completed during her investigation into Defendant's deceptive business practices, documentation she collected, and evidence of consumers' proof of payments. Investigator Amabile's affidavit included a chart of restitution owed for each of the 48 consumers. The Court finds Plaintiff's affidavit evidence to be credible and sufficient to substantiate the amount of damages Plaintiff requested in their Damages Memo.

The Court finds that each consumer sustained individual damages in the amounts set forth in the Consumer Damages List (attached as Exhibit 11A to Plaintiff's Damages Memo). Based on this evidence, the Court orders Defendant to reimburse each consumer in the amount specified in attached Exhibit A, for a total payment of \$54,036.67. Payment shall be made to the Consumer Protection Section of the Ohio Attorney General's Office for distribution to the 48 consumers.

In its Damages Memo, Plaintiff also explained the basis for the \$50,000 of civil penalties requested pursuant to R.C. 1345.07(D) and provided evidence of the Defendant's violations of the CSPA. The Court finds Defendant's request for civil penalties well taken. Defendant's conduct, set forth above, warrants the imposition of civil penalties. Defendant engaged in business in Ohio while ignoring the state's consumer protection laws. She convinced at least 48 consumers to make

payments in exchange for goods and services that were never delivered. She refused to make refunds to consumers and has ignored attempts to address their concerns. To properly deter Defendant from engaging in this conduct in the future, the Court imposes a \$50,000 civil penalty against Defendant.

Based on the above, the Court restates below the Findings of Fact, Conclusions of Law, and ordered relief included in the Court's Default Judgment Entry and Order, and orders additional relief based on the evidence presented in the Plaintiff's Damages Memo.

FINDINGS OF FACT

1. Defendant Desiree Gilliam Pace is a natural person whose last known personal residence is 1140 Hedges Rd., Xenia Ohio 45385.
2. Defendant engaged in consumer transactions using the name Flowers by Des, a business name not registered with the Ohio Secretary of State.
3. Defendant's principal place of business was located at 99 Lowell Rd., Xenia, Ohio 45385.
4. Consumers contracted with Defendant to provide floral services for weddings and other events.
5. The floral services that the Defendant provided included, but were not limited to, flowers for weddings, wedding parties and decorations at other event venues.
6. Defendant required that consumers make substantial down payments of 50% or more for the floral services at the time of entering into the contract.
7. Defendant required that the remaining balance due pursuant to the contract be paid in full by the date of the wedding or other event.

8. For some consumers, Defendant confirmed services in advance of the event date and failed to provide the flowers on the day of the consumers' weddings or other events.
9. For some consumers, Defendant contacted the consumers and cancelled the floral services just days before the consumers' weddings or other events.
10. For some consumers, Defendant never contacted the consumers and failed to provide the flowers on the day of the consumers' weddings or other events.
11. Defendant failed to deliver to consumers the goods and services that were contracted and paid for.
12. Consumers requested refunds from Defendant for goods or services not provided and Defendant misrepresented the status of the consumers' refunds.
13. Defendant failed to refund consumers' deposits or payments despite consumers' requests for refunds.

CONCLUSIONS OF LAW

14. The Attorney General, acting on behalf of the State of Ohio and in the public interest, is the proper party to bring this action by virtue of the authority vested in the Attorney General by R.C. 1345.07.
15. The actions of Defendant have occurred in Ohio, including in Greene County and, as set forth below, are in violation of the Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq., its Substantive Rules, Ohio Administrative Code ("O.A.C.") 109:4-3-01 et seq.
16. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.

17. Venue in this Court is proper, pursuant to Ohio Civ. R. 3(C)(3), because Greene County is where Defendant has her principal place of business and where the Defendant conducted activity that gave rise to the claim for relief.
18. Defendant is a "supplier" as that term is defined in R.C. 1345.01(C) of the CSPA because Defendant has engaged in the business of effecting "consumer transactions" either directly or indirectly by soliciting and selling floral services for purposes that were primarily personal, family, or household, within the meaning of R.C. 1345.01(A).
19. Defendant engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02(A) of the CSPA and the Failure to Deliver Rule, O.A.C. 109:4-3-09(A), by accepting money from consumers for flowers and floral services and permitting eight weeks to elapse without delivering the promised goods or services or issuing a full refund.
20. Defendant committed unfair or deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) by misrepresenting the status of consumers' orders and refunds.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED THAT:

- A. Defendant, doing business under her own name, or any other names, her agents, representatives, salespeople, employees, successors, or assigns, and all persons acting in concert or participating with her, directly or indirectly, are PERMANENTLY ENJOINED, pursuant to R.C. 1345.07(A)(2), from engaging in the acts and practices described in this order and from further violating the CSPA, R.C. 1345.01 et seq., its Substantive Rules, O.A.C. 109:4-3-01 et seq., including, but not limited to, violating the specific provisions described herein.

- B. It is DECLARED, pursuant to R.C. 1345.07(A)(1), that the acts and practices committed by Defendant, as set forth above, violate the CSPA, R.C. 1345.01 et seq., its Substantive Rules, O.A.C. 109:4-3-01 et seq. in the manner set forth herein.
- C. Pursuant to 1345.07(B), Defendant is ORDERED to pay consumer damages to the Ohio Attorney General in the total amount of Fifty-Four Thousand Thirty-Six Dollars and Sixty-Seven Cents (\$54,036.67) to be distributed by the Attorney General to the consumers identified on the attached Ex. A, in the amounts specified on Ex. A.
- D. Based on the above findings that Defendant committed unfair and deceptive acts and practices in violation of the CSPA, Defendant is ORDERED to pay civil penalties, pursuant to R.C. 1345.07(D), to the Ohio Attorney General in the amount of Fifty Thousand Dollars (\$50,000).
- E. Payment of the amounts required pursuant to Paragraphs C-D above, in the total amount of One Hundred Four Thousand Thirty-Six Dollars and Sixty-Seven Cents (\$104,036.67) shall be made via certified check or money order, made payable to the "Ohio Attorney General's Office," and delivered to:

**Consumer Protection Section
Attn: Finance Specialist
Office of the Ohio Attorney General
30 E. Broad St., 14th Floor
Columbus, Ohio 43215**

Full payment shall be made by Defendant within 7 days of the filing of this Judgment Entry.

- F. It is further ORDERED that in the event the Ohio Attorney General must initiate legal action or incur any costs to compel the Defendant to abide by this Judgment Entry,

Defendant shall be liable to the Ohio Attorney General, should he prevail, for all related enforcement costs, including, but not limited to, a reasonable sum for attorneys' fees, investigative costs, and interest and collection costs as permitted by statute.

G. Defendant is ORDERED to pay all court costs.

Pursuant to Civil Rule 58(B), the Clerk is directed to serve upon all parties notice and the date of this judgment. **This is a final appealable order; there is no just reason for delay.**

IT IS SO ORDERED

5/25/22
DATE


JUDGE BUCKWALTER

Submitted by:
DAVE YOST
Ohio Attorney General

Rosemary E. Rupert (#0042389)
Principal Assistant Attorney General
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Columbus, Ohio 43215-3400
Phone: (614) 752-5548
rosemary.rupert@OhioAGO.gov
Counsel for Plaintiff, State of Ohio

22-05-0591

EXHIBIT A

| | | | | | | | |
|----|-----------|------------------|---------------------------|---------------|----|--------------|--------------------|
| 1 | Sama | Alkalaf | 3243 Observatory Ave | Cincinnati | OH | 45208 | \$850.00 |
| 2 | Rachel | Bailey | 4912 Rittenhouse Drive | Dayton | OH | 45424 | \$670.00 |
| 3 | Elizabeth | Beam | 606 N. West St | Xenia | OH | 45385 | \$1,153.46 |
| 4 | Melanie | Brown | 301 Courtin Drive Apt 309 | Dayton | OH | 45459 | \$1,000.00 |
| 5 | Beth | Bruno | 2610 Quail Run Road | Fairborn | OH | 45324 | \$726.50 |
| 6 | Maria | Cross | 6961 Evergreen Cir | Huber Heights | OH | 45424 | \$1,536.20 |
| 7 | Kevin | Curtis | 3735 Grimes Dr. | Columbus | OH | 43204 | \$2,495.16 |
| 8 | Marla | Dickens | 8005 Bushclover Dr | Tipp City | OH | 45371 | \$1,988.66 |
| 9 | Brittany | England | 5689 Mayville Dr | Dayton | OH | 45432 | \$106.43 |
| 10 | Alexandra | Frye | 8367 Gwilada Dr | Cincinnati | OH | 45236 | \$1,254.53 |
| 11 | Emily | Gallagher | 1326 Cottage Court Dr | Fairborn | OH | 45324 | \$550.00 |
| 12 | Elizabeth | Gentry | 2247 Andrew Rd | Dayton | OH | 45440 | \$1,654.59 |
| 13 | Teresa | George | 777 Old 122 Road | Lebanon | OH | 45036 | \$700.00 |
| 14 | Christina | Hakes | 5983 Harshmanville Rd | Huber Heights | OH | 45424 | \$557.46 |
| 15 | Marena | Hernandez | 460 Hickory Hill Ct | Monore | OH | 45050 | \$1,300.00 |
| 16 | Seth | Hoop | 1133 True Hollow Rd | Chillicothe | OH | 45601 | \$3,211.77 |
| 17 | Michele | Howard | 143 Madden Rd | Chillicothe | OH | 45601 | \$679.94 |
| 18 | Caitlin | Kavesh | 10466 Woodleigh Ln | Cincinnati | OH | 45241 | \$1,406.85 |
| 19 | Teresa | Kirkman | 1029 W Pleasant Plain Rd | Williamsburg | OH | 47393 | \$971.78 |
| 20 | Melissa | Kistler | 531 White Oak Ave. | Georgetown | OH | 45121 | \$944.08 |
| 21 | Meghan | Knight | 7810 Village Dr Apt B | Cincinnati | OH | 45242 | \$275.00 |
| 22 | Ellnor | Kozarec | 260 Bluegrass Ave. | Southgate | KY | 41071 | \$1,239.51 |
| 23 | Jordan | Lance | 2207 Southlea Dr | Dayton | OH | 45459 | \$2,369.36 |
| 24 | Avery | Menke | 1568 Oak Knoll Ct | Fairfield | OH | 45014 | \$752.69 |
| 25 | Macy | Michael | 838 Saint James Ave. | Park Hills | KY | 41011 | \$450.00 |
| 26 | Lisa | Monaghan | 2111 Sir Lockesley Dr | Miamisburg | OH | 45342 | \$1,156.16 |
| 27 | Jenna | Onderko | 86 Orchard Ln. | Westerville | OH | 43081 | \$1,766.17 |
| 28 | Allison | Parrill | 1129 Pheasant Dr. | Midlothian | TX | 76065 | \$750.00 |
| 29 | Kaileigh | Peyton | 2029 Alvin St. | Cincinnati | OH | 45219 | \$855.49 |
| 30 | Leigh | Pheiffer | 39 Arnold Ave | Germantown | OH | 45327 | \$800.00 |
| 31 | Khloe | Phong Schweinitz | 124 Minnick Street | Franklin | OH | 45005 | \$1,600.08 |
| 32 | Emily | Pordash | 3754 Eyrich Rd | Cincinnati | OH | 45248 | \$1,556.52 |
| 33 | Aubrey | Richardson | 2063 E 4Th St Apt 6 | Cleveland | OH | 44115 | \$1,849.00 |
| 34 | Ashley | Rogers | 4630 Twp Rd 213 | Marengo | OH | 43334 | \$712.18 |
| 35 | Aubrey | Ryan | 54255 High Ridge Rd. | Bellaire | OH | 43906 | \$700.00 |
| 36 | Kelsey | Satterfield Fox | 9905 Mad River Rd | New Vienna | OH | 45159 | \$1,576.80 |
| 37 | Veronica | Saul | 104 Scott Ct | Germantown | OH | 45327 | \$753.00 |
| 38 | Lindsay | Schumacher | 1125 Larriwood Ave | Kettering | OH | 45429 | \$500.00 |
| 39 | Barbara | Scott | 4079 Malaer Drive | Cincinnati | OH | 45241 | \$1,317.06 |
| 40 | Allison | Shuey | 103 Dallas St | Farmersville | OH | 45325 | \$1,792.83 |
| 41 | Julie | Stecher- Gerace | 5921 Northglen Rd. | Cincinnati | OH | 45248 | \$1,230.44 |
| 42 | Mickaela | Sudhoff | 6309 Girard Ave | Cincinnati | OH | 45213 | \$716.60 |
| 43 | Pamela | Swann | 466 Walden Trl. | Beavercreek | OH | 45440 | \$712.09 |
| 44 | Rachel | Vines | 259 Cherry Dr. 325 | Dayton | OH | 45459 | \$1,234.64 |
| 45 | Cassidy | Woodson | 2913 Shively Ct | Dayton | OH | 45420 | \$365.08 |
| 46 | Kristin | Woollum | 104 Green Hill Dr | Covington | KY | 41017 | \$1,188.00 |
| 47 | Lauren | Spoltman | 319 Glenwood Ave | Piqua | OH | 45356 | \$961.76 |
| 48 | Taylor | Zimmerman | 217 Harwood Ct. | Delaware | OH | 43015 | \$1,098.80 |
| | | | | | | TOTAL | \$54,036.67 |

22-05-0592