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JUN 14 2022

**CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE**

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO
CIVIL DIVISION

STATE OF OHIO,

Plaintiff,

-VS-

GATEWAY STUDENT TOURS INC et al,

Defendants.

CASE NO.: 2021 CV 02858

JUDGE MARY E. MONTGOMERY

**FINAL ENTRY AND ORDER GRANTING
JUDGMENT AGAINST DEFENDANTS**

On September 22, 2021, Plaintiff filed a Civ.R. 55(A) Motion for Default Judgment against Defendants Gateway Student Tours, Inc. and Timothy J. Bronchetti ("Defendants") based on their failure to defend or otherwise appear in the lawsuit. The Motion for Default Judgment also asked that the Defendants be held liable for consumer restitution and civil penalties in an amount to be determined at a later date. Plaintiff's Motion for Default Judgment was granted on October 8, 2021. Plaintiff subsequently filed memoranda and consumer affidavits in support of damages on February 22, 2022, March 7, 2022, and June 2, 2022.

Based on Plaintiff's Complaint, the default motion, Plaintiff's damages memoranda, and the consumer affidavits, the Court finds the following facts and conclusions of law, and orders the following relief.

FINDING OF FACTS

The Court finds the following facts:

1. Defendant Timothy J. Bronchetti ("Bronchetti") is a natural person whose last known address is 7624 Admiral Drive, Liverpool, New York 13090.
2. Defendant Bronchetti at all times pertinent hereto directed, supervised, approved, formulated, authorized, ratified, benefited from, and/or otherwise participated in the business activities and sales

conduct of Defendant Gateway Student Tours, Inc., including the violations described in this Complaint.

3. The principal place of business for Gateway Student Tours, Inc. was 200 Salina St., Ste. 101, Liverpool, NY 13088.
4. Gateway Student Tours, Inc. is a domestic business corporation that has been registered with the New York Secretary of State since April 27, 2016.
5. Defendants at all times relevant to this action were engaged in the business of selling student tour packages to consumers in Montgomery County.
6. Defendants accepted monetary deposits from consumers for the purchase of student tour packages and travel insurance for a trip set to begin April 3, 2020.
7. On March 12, 2020, consumers contacted Defendants to inform them that due to COVID-19, Ohio Schools were closed.
8. On April 2, 2020, Ohio Governor Mike DeWine issued a shelter in place order.
9. Consumers that purchased travel insurance requested refunds in accordance with Defendants' contracts.
10. Consumers that did not purchase travel insurance also requested refunds from Defendants.
11. Defendants never provided the refunds.

CONCLUSIONS OF LAW

1. This Court has subject matter jurisdiction over this action pursuant to R.C. 1345.04 because the claims in this Complaint arise from consumer transactions subject to R.C. 1345.01 *et seq.*
2. Venue is proper with this Court pursuant to Ohio Civ. R. 3(C)(3), in that Montgomery County is where the Defendants conducted activity that gave rise to the claim for relief.
3. The Attorney General is the proper party to commence these proceedings under the authority provided him under R.C. 1345.01 *et seq.* and by virtue of his statutory and common law authority to protect the interests of the citizens of Ohio.
4. Defendants Gateway Student Tours, Inc. and Timothy J. Bronchetti are "suppliers," as that term is defined in R.C. 1345.01(C), as the Defendants were, at all times relevant herein, engaged in the business of effecting consumer transactions by soliciting and selling student tour packages to

individuals in Ohio, including in Montgomery County, for purposes that were primarily personal, family, or household within the meaning specified in R.C. 1345.01(A) and (D).

5. Defendants committed unfair and deceptive acts and practices in violation of the Consumer Sales Practices Act (“CSPA”), R.C. 1345.02(A), by failing to provide refunds to consumers who prepaid for services that were not received. Such acts or practices have been previously determined by an Ohio court to violate the CSPA, R.C. 1345.01 *et seq.* Defendants committed said violations after such a decision was available for public inspection pursuant to R.C. 1345.05(A)(3).
6. Defendants committed unfair and deceptive acts and practices in violation of the Consumer Sales Practices Act (“CSPA”), R.C. 1345.02(A), by accepting money from consumers for goods or services and refusing to issue refunds once the goods or services were rendered useless due to COVID-19.
7. Defendants committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by failing to honor the written terms of their own contracts by failing to provide refunds to consumers who purchased travel insurance and attempted to cancel their trips in accordance with Defendants’ contracts.

ORDER

It is therefore **ORDERED, ADJUDGED, AND DECREED** that:

1. Plaintiff’s request for a Declaratory Judgment that the acts and practices set forth above are in violation of the CSPA is hereby GRANTED.
2. Defendants, doing business under their own names, under the name Gateway Student Tours, Inc., or any other names, their agents, representatives, salespeople, employees, successors, or assigns, and all persons acting in concert and participation with them, directly or indirectly, are hereby PERMANENTLY ENJOINED from engaging in the acts or practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 *et seq.*, including, but not limited to, the conduct described herein.
3. Defendants are liable for consumer restitution in the amount of \$47,094.00 to be paid to and distributed by the Ohio Attorney General’s Office to the following consumers:

Last Name	First Name	Amount
Azbill	Tim	\$ 849.00

Bernecker	Mindy	\$ 849.00
Bianchi	Holly	\$ 849.00
Booth	Patty	\$ 899.00
Brooks	Jennifer	\$ 849.00
Butler	Stephen	\$ 849.00
Claiborne	Tracy	\$ 899.00
Cross	Kysa	\$ 849.00
Darkwa	Elizabeth	\$ 849.00
Deep	Natalie	\$ 250.00
Drozda	Joe	\$ 849.00
Dunphy	Mary	\$ 849.00
Dworkin	Carol	\$ 599.00
Fadell	Huda	\$ 849.00
Foster	James	\$ 899.00
Gantt	Alissa	\$ 849.00
Goheen	Anthony	\$ 849.00
Hamilton	Steve	\$ 849.00
Harper	Mike	\$ 899.00
Harshbarger	Laura	\$ 1,196.00
Henry	Carol	\$ 899.00
Hill	Daniel	\$ 849.00
Homan	David	\$ 898.50
Jecker	Jodi	\$ 899.00
Johnston	Tom	\$ 800.00
Kepple	Lance	\$ 300.00
Knebel	Karen	\$ 849.00
Kunesh	Sarah	\$ 849.00
Louthain	James	\$ 849.00
Marquez	Desiree	\$ 849.00
McHenry	Eric	\$ 300.00
Ouellette	Jackie	\$ 849.00
Pascual	Amelia	\$ 849.00
Patten	Ginger	\$ 899.00
Peterson	Sigurd	\$ 899.00

Rich	Norm	\$ 899.00
Riegel	Kathy	\$ 849.00
Rocco	Pauline	\$ 849.00
Rushing	Kelly	\$ 849.00
Russ	Stephan	\$ 849.00
Scheimann	Jennifer	\$ 899.00
Schimpf	Angela	\$ 849.00
Schimpf	Kim	\$ 1,798.00
Schuermann	Jane	\$ 899.00
Smith	Jeff	\$ 299.50
Stearns	Steve	\$ 849.00
Steneman	Kimberly	\$ 849.00
Stier	Chris	\$ 899.00
Stolly	Erin	\$ 899.00
Sweeterman	John	\$ 899.00
Tangeman	Rick	\$ 849.00
Tyra	Melinda	\$ 849.00
West	Verna	\$ 849.00
White	Christina	\$ 899.00
Woeste	Nancy	\$ 849.00
Zelinski	Theresa	\$ 849.00

4. Defendants shall pay a civil penalty of \$40,000.00, pursuant to R.C. 1345.07(D).
5. Defendants are PERMANENTLY ENJOINED from engaging in any consumer transactions as Suppliers in the State of Ohio until they have satisfied all monetary obligations hereunder.
6. Defendants shall pay Plaintiff the costs of collecting on this judgment as permitted by statute.
7. Defendants shall pay all court costs associated with this matter.

The Court makes the following additional findings as to the evidence presented of the amounts owed to two of the consumers, Lance Kepple and Eric McHenry. As the Court noted in its April 21, 2022 order in this matter, the amounts that Kepple and McHenry stated in their affidavits that they had paid to Defendant Gateway Student Tours, Inc. ("Gateway") did not match the amounts reflected in the evidence attached to their affidavits. Kepple stated in his affidavit that he paid Gateway a total of \$899.00, and that a true and accurate

copy of his payment was attached to the affidavit as Exhibit B. *See* Kepple Aff. at ¶ 3, filed 02/22/22. However, Exhibit B to Kepple's affidavit is an image of one check to Gateway in the amount of only \$300.00. Similarly, McHenry stated in his affidavit that he paid Gateway a total of \$849.00, and that a true and accurate copy of his payment was attached to the affidavit as Exhibit B. *See* McHenry Aff. at ¶ 3, filed 02/22/22. However, Exhibit B to McHenry's affidavit is an image of one check to Gateway in the amount of only \$300.00.

Plaintiff has the burden of proving the damages it is seeking in this matter, on behalf of the consumers, by a preponderance of the evidence. "A preponderance of the evidence is defined as 'the greater weight of the evidence, that is, evidence that you believe because it outweighs or overbalances in your mind the evidence opposed to it. A preponderance means evidence that is more probable, more persuasive, or of greater probative value. It is the quality of the evidence that must be weighed.'" *Lyon v. Wilson*, 3d Dist. Marion No. 9-16-17, 2016-Ohio-7734, ¶ 11, quoting *Cawrse v. Allstate Ins. Co.*, 5th Dist. Ashland No. 09COA002, 2009-Ohio-2843, ¶ 29.

Plaintiff has only proven damages as to Kepple and McHenry in the amount of \$300.00 each. Kepple and McHenry each state in their respective affidavits that they are owed over \$800.00. However, an exhibit attached to each of their affidavits only reflects damages in the amount of \$300.00. Accordingly, the Court finds that Plaintiff has only proven, by a preponderance of the evidence, that Defendants owe Kepple and McHenry \$300.00 each.

There is no just reason for delay as to the orders contained in the instant order and in the Court's *Default Judgment Entry and Order* filed on October 8, 2021.

THIS IS A FINAL APPEALABLE ORDER, AND THERE IS NO JUST REASON FOR DELAY FOR PURPOSES OF CIV.R. 54. IN ACCORDANCE WITH APP.R. 4, ANY PARTY INTENDING TO APPEAL THIS DECISION SHALL FILE A NOTICE OF APPEAL WITHIN THIRTY (30) DAYS.

To the Clerk of Courts:

Pursuant to Civ.R. 58(B), please serve upon all parties not in default for failure to appear Notice of Judgment and its date of entry upon the journal.

SO ORDERED:

JUDGE MARY E. MONTGOMERY

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LISA TRELEVEN
(513) 852-1527
Attorney for Plaintiff, State Of Ohio

Copies of this document were sent to all parties listed below by ordinary mail:

GATEWAY STUDENT TOURS INC
200 SALINA ST. STE 101
LIVERPOOL, NY 13088
Defendant

TIMOTHY J BRONCHETTI
7624 ADMIRAL DR.
LIVERPOOL, NY 13090
Defendant

Julene Powers, Bailiff (937) 225-4055 Julene.Powers@montcourt.oh.gov



General Division
Montgomery County Common Pleas Court
41 N. Perry Street, Dayton, Ohio 45422

Case Number:
2021 CV 02858

Case Title:
STATE OF OHIO vs GATEWAY STUDENT TOURS INC

Type:

Final Judgment Entry

So Ordered,

Mary E. Montgomery