

RECEIVED
ATTORNEY GENERAL OF OHIO

AUG 15 2023

**IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO**

**CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE**

STATE OF OHIO, *ex rel.*
ATTORNEY GENERAL
DAVE YOST

PLAINTIFF,

v.

TUNE SQUAD ENTERTAINMENT,
LLC, ET. AL.,

DEFENDANTS

CASE NO. 2023-02-0650

JUDGE CHRISTINE CROCE

JUDGMENT ENTRY & ORDER

Plaintiff, the State of Ohio, commenced this action on February 27, 2023, filing its Complaint against Defendants Tune Squad Entertainment, LLC and Adam M. Shearer ("Defendants"). The Complaint alleged violations of the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 *et seq.*, and its Substantive Rules, O.A.C. 109:4-3-01 *et seq.* and sought declaratory relief, injunctive relief, restitution to injured consumers, and civil penalties.

Plaintiff moved for default judgment on June 15, 2023. The Court granted default judgment against Defendants on July 5, 2023.

On July 27, 2023, Plaintiff filed a Memorandum in Support of Damages and Other Requested Relief in which Plaintiff submitted evidence, including an investigator affidavit, supporting the amount of consumer damages and civil penalties that Plaintiff was requesting. In his affidavit, Investigator John Hathaway attested to the damages the consumers suffered. The evidence established that the consumers sustained monetary damages after Defendants failed to provide the disc jockey services and upgrades for which Defendants accepted the consumers' payments, and

that Defendants made misrepresentations to consumers. The Court finds that the consumers sustained damages in the amount of \$1,898.00.

In its Damages Memo, Plaintiff also justified the request for a \$5,000.00 civil penalty for Defendants. Plaintiff requested the civil penalty pursuant to R.C. 1345.07(D) and provided evidence of the Defendants' violations of the CSPA sufficient to warrant imposing a civil penalty. The Court finds Plaintiff's request for a civil penalty in the amount of \$5,000.00 to be well-taken.

Based on the above, the Court restates below the Findings of Fact, Conclusions of Law, and Orders that were originally included in the Court's July 5, 2023 Default Judgment Entry and Order, along with Orders specifying the consumer damages and civil penalty amounts that Defendants must pay.

FINDINGS OF FACT

1. Defendants' business operated out of Defendant Shearer's Ohio home at 227 Yager Road, New Franklin, Ohio 44216.
2. Defendants provided entertainment services to consumers, including disc jockey services.
3. Defendants entered into contracts with consumers to provide disc jockey services.
4. Defendants accepted down payments for disc jockey services.
5. Defendants represented to consumers that they would provide the ordered services at a certain date and time and then failed to provide such services at the time promised, if at all.
6. Defendants represented to consumers that certain contracted for services would be provided and then failed to provide such services.
7. After receiving a down payment or deposit, Defendants sometimes failed to deliver the services at all.

8. Defendants have refused to refund consumers' deposits or payments despite consumers' requests for refunds.

9. In some instances, Defendants have offered to issue a refund of consumers' deposits and then failed to do so.

10. Defendants' failure to perform contracted disc jockey services at all or perform disc jockey services as contracted for has resulted in harm to consumers.

CONCLUSIONS OF LAW

11. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.

12. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(1) and (3), in that Summit County is the county where Defendants were located and conducted activity giving rise to the claims for relief.

13. The Attorney General is the proper party to commence these proceedings in the public interest and on behalf of the State of Ohio under the authority vested in him by R.C. 1345.01 *et seq.*

14. Defendants are each a "supplier," as that term is defined in R.C. 1345.01(C), as they engaged in the business of effecting "consumer transactions" by soliciting consumers either directly or indirectly for service, including disc jockey and entertainment services, for purposes that were primarily for personal, family, or household use, as those terms are defined by R.C. 1345.01(A), (C), and (D).

15. Defendant Shearer controlled and directed the business activities and sales conduct of Defendant Tune Squad Entertainment, LLC, causing, personally participating in, or ratifying the acts and practices of Tune Squad Entertainment, LLC, including the conduct giving rise to the violations described herein.

16. Defendants committed unfair or deceptive acts or 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 services and then permitting eight weeks to elapse without providing the services ordered, making a full refund and offering to send a refund within two weeks if so requested, or furnishing services of equal or greater value as a good faith substitute.

17. Defendants committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by misrepresenting the status of consumers' refunds.

18. The acts or practices described in Conclusions of Law Paragraphs 16 and 17 have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 *et seq.* Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

ORDER

For the purposes of effecting this Judgment Entry and Order, it is hereby ORDERED, ADJUDGED, and DECREED that:

A. Plaintiff's request for Declaratory Judgment is GRANTED, and it is therefore DECLARED that the acts and practices set forth above violate the CSPA, R.C. 1345.01 *et seq.* and its Substantive Rules, the manner set forth herein.

B. Defendants, individually or doing business under any other names, their agents, employees, successors or assigns, and all persons acting in concert and participation with them, directly or indirectly, through any corporate device, partnership, or other association, under these or any other names, are hereby PERMANENTLY ENJOINED from engaging in the acts and practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 *et seq.* and its Substantive Rules.

C. Defendants, individually and doing business under any other names, are hereby PERMANENTLY ENJOINED from engaging in business as a Supplier in any consumer transaction in the State of Ohio until such time as they have satisfied all monetary obligations ordered by this Court, and any other Court in Ohio, in connection with a consumer transaction.

D. Defendants are ORDERED to pay actual consumer damages to the Ohio Attorney General in the total amount of \$1,898.00 to be distributed by the Attorney General to the three consumers identified in the affidavit attached to Plaintiff's Damages Memo as Exhibits 1.

E. Based on the above findings that Defendants committed unfair and deceptive acts and practices in violation of the CSPA, Defendants are ORDERED to pay a civil penalty to the Ohio Attorney General in the amount of \$5,000.00.

F. Defendant are ORDERED to pay Plaintiff's costs in bringing this action, including, but not limited to, the costs of collecting on any judgment awarded.

G. Defendants are ORDERED to pay all court costs.

There is no just cause for delay. This is a final appealable Order.

IT IS SO ORDERED.



JUDGE CHRISTINE CROCE

Direction to Clerk: Pursuant to Civ. R. 58(B), you are to serve notice of this judgment and its date of entry upon the journal to all parties not in default for failure to appear within three days of the judgment's entry upon the journal, and note the service in the appearance docket.

TO THE CLERK:

Please mail copies of the foregoing Judgment Entry and Order to the Defendants at the following addresses:

Adam M. Shearer
339 Athens Way, Apt. 402
Nashville, TN 37225

Tune Squad Entertainment, LLC
339 Athens Way, Apt. 402
Nashville, TN 37225
Submitted by:

DAVE YOST
OHIO ATTORNEY GENERAL

/s/ Kevin R. Walsh

KEVIN R. WALSH (0073999)
Senior Assistant Attorney General
Consumer Protection Section
615 W. Superior Avenue, 11th Floor
Cleveland, OH 44113
216-787-3030
Kevin.Walsh@ohioago.gov