

IN THE COURT OF COMMON PLEAS
WARREN COUNTY, OHIO

STATE OF OHIO, ex rel.
ATTORNEY GENERAL
DAVE YOST

Plaintiff,

v.

Duane Milby, et al.

Defendants.

) CASE NO. 24 CV 97870
)
)
) Judge Robert Peeler
)
)

Final Judgment Entry and Order
Against Defendants

This matter initially came to be heard upon the filing of Plaintiff's Motion for Default Judgment ("Motion for Default") against Defendants Duane Milby ("Milby"), Conex Express, LLC ("Conex Express"), and Conex Pro, LLC ("Conex Pro"). Plaintiff's Motion for Default set forth Plaintiff's requested relief, including declaratory and injunctive relief, consumer restitution, and civil penalties, all of which Plaintiff first requested in its Complaint. Attached to the Motion for Default as evidence to establish consumer damages were the sworn affidavits of seven consumers who suffered monetary damages due to Defendants' violations of Ohio consumer Protection laws. Defendants Milby and Conex Express were served by ordinary mail on October 11, 2024. Defendant Conex Pro was served by ordinary mail on December 2, 2024.

The Court finds that Plaintiff's Motion for Default to be well taken and hereby **GRANTS** a Default Judgment against Defendants, pursuant to Civ.R. 55(A).

In accordance with R.C. 1345.07(A)(1), Plaintiff's Motion for Default requested an order declaring that Defendants engaged in acts and practices that violate the Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 *et seq.*, and its Substantive Rules, Ohio Adm.Code 109:4-3-01 *et seq.* Plaintiff further requested the issuance of a permanent injunction pursuant to R.C. 1345.07(A)(2),

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enjoining Defendants from engaging in the acts and practices described in the Complaint, including from violating the CSPA and its Substantive Rules.

The evidence Plaintiff presented establishes that three consumers who submitted affidavits suffered damages in the amount of \$10,798.00 as a result of Defendants Milby and Conex Express's conduct. The evidence also establishes that four consumers who submitted affidavits suffered damages in the amount of \$10,006.25 as a result of Defendants Milby and Conex Pro's conduct.

Based on the above, the Court renders a final judgment order and entry against Defendants and issues the following Findings of Fact, Conclusions of Law, and Orders.

FINDINGS OF FACT

1. Defendant Milby is a natural person who resides at 1002 Columbus Hines Way, New Lebanon, Ohio 45345-1615.
2. Defendant Milby filed Articles of Incorporation for Defendant Conex Express, LLC with the Ohio Secretary of State on June 13, 2022.
3. Defendant Milby filed Articles of Incorporation for Defendant Conex Pro LLC with the Ohio Secretary of State on April 27, 2023.
4. Defendant Milby operated Defendant Conex Express and Defendant Conex Pro across the nation while he worked as a long-haul trucker.
5. Defendants advertise, solicit, and sell household goods and services, specifically the sale and delivery of Conex containers to Ohio consumers.
6. A Conex container is a large, typically plain, re-usable shipping and storage container. The containers are typically made of steel or a steel alloy to help the container withstand weather events.

7. Consumers purchased their Conex shipping containers for personal, family, or household purposes for use on their personal property.
8. For example, the Ohio Attorney General's Office received complaints from consumers who purchased Conex shipping containers for personal purposes including storing personal wedding decorations, a garage for personal automobiles, and a shed to store personal property.
9. Defendants accepted monetary payment from consumers for the purchase and delivery of Conex shipping containers.
10. Defendants provided some consumers with invoices evidencing payment by consumers for the promised Conex containers and delivery service.
11. In one instance, Defendants failed to provide an invoice to a consumer.
12. The invoices include the amount paid by consumers, a partial description of the goods, and services purchased by the consumers, but otherwise provide a dearth of details. For example, the invoices fail to include the following information: the color of the Conex container, whether the deposit is refundable, and the conditions for a refund of the deposit.
13. In many instances, after receiving payment from consumers for the purchase and delivery of Conex containers, Defendants failed to deliver the Conex containers promised to consumers
14. Consumers who did not receive their Conex containers purchased requested refunds from Defendants and Defendants failed to provide the requested refunds
15. Defendants accepted money from consumers and failed to deliver the promised Conex containers within eight weeks of the contract date. Consumer communicated with

Defendants repeatedly to request a refund from Defendants. Defendants refused to provide refunds to consumers.

16. Despite consumers' attempts to communicate and work with Defendants, Defendants failed to provide refunds to consumers or deliver the promised goods and services.

CONCLUSIONS OF LAW

17. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
18. The Court has venue to hear this case pursuant to Ohio Civ.R. 3(C)(3) because Warren County is one of the counties in which Defendants conducted activity that gave rise to the claims for relief.
19. 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.*
20. Defendants are each a "supplier" as that term is defined in R.C. 1345.01(C) of the CSPA, because Defendants have engaged in the business of effecting "consumer transactions" either directly or indirectly by soliciting and selling household goods or services to "consumers" for purposes that were primarily personal, family, or household, within the meaning of R.C. 1345.01(A) and (D).
21. Defendants engaged in unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), and the Failure to Deliver Rule, Ohio Adm.Code 109:4-3-09(A) by accepting money from consumers for goods and services and then permitting eight weeks to elapse without making shipment or delivery of the goods and services ordered, making a full refund, advising the consumers of the duration of an extended delay and offering to

send a refund within two weeks if so requested, or furnishing similar services of equal or greater value as a good faith substitute.

22. Defendants engaged in unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), and the Deposit Rule, O.A.C. 109:4-3-07 *et seq.*, by accepting deposits or full pre-payment for goods and services and failing to provide consumers with a receipt that complied with the requirements of O.A.C. 109:4-3-07(B)(1) and (5).

23. The Failure to Deliver Rule and the Deposit Rule were both adopted on June 15, 1973, long before Defendants' violations. Additionally, the acts or practices described in paragraphs 21-22 above 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 made available for public inspection pursuant to R.C. 1345.05(A)(3).

ORDER

24. For the purposes of affecting this Default Judgment Entry and Order, it is hereby

ORDERED, ADJUDGED, AND DECREED that:

A. Plaintiff's request for a Declaratory Judgment is GRANTED, and it is therefore declared that, pursuant to R.C. 1345.07(A)(1), that the acts and practices committed by Defendants, set forth above, violate the CSPA, R.C. 1345.01 *et seq.*, and its Substantive Rules, Ohio Adm.Code 109:4-3-01 *et seq.*, in the manner set forth in the Complaint.

B. Defendants, doing business under their own names, or any other names, together with his agents, employees, successors, or assigns, and all persons acting in concert and participation with him, directly or indirectly, through any corporate device, partnership, or other association is hereby PERMANENTLY ENJOINED, pursuant to R.C. 1345.07(A)(2), from engaging in any unfair, deceptive, or unconscionable acts or

practices that violate the CSPA or its Substantive Rules including, without limitation, the conduct described in the Conclusions of Law Paragraphs above.

- C. Based on the above findings that Defendants committed unfair and deceptive acts and practices in violation of the CSPA, Defendants, jointly and severally, are ORDERED, pursuant to R.C. 1345.07(D), to pay the Ohio Attorney General's Office civil penalties in the amount of \$30,000.00. Payment shall be due within seven days of the entry of this judgment.
- D. Defendant Conex Express is ORDERED, pursuant to R.C. 1345.07(B) to pay consumer damages in the amount of \$10,798.00 with payment to be made to the Ohio Attorney General's Office for distribution to the following three consumers: Joshua Chalk, Wayne Pinson, and Walter Starrett. Payment shall be due within seven days of the entry of this judgment.
- E. Defendant Conex Pro is ORDERED, pursuant to R.C. 1345.07(B) to pay consumer damages in the amount of \$10,006.25 with payment to be made to the Ohio Attorney General's Office for distribution to the following four consumers: James White, Clifton Hall, David Lemley, and Shannon Gilli. Payment shall be due within seven days of the entry of this judgment.
- F. Defendant Milby is ORDERED, pursuant to R.C. 1345.07(B) to pay consumer damages in the amount of \$20,804.25 with payment to be made to the Ohio Attorney General's Office for distribution to consumers as set forth in Paragraphs D and E above. Payment shall be due within seven days of the entry of this judgment.
 - a. Defendant Milby is jointly and severally liable for \$10,798.00 of the total \$20,804.25 with Defendant Conex Express.

b. Defendant Milby is jointly and severally liable for \$10,006.25 of the total \$20,804.25 with Defendant Conex Pro.


G. Defendants are ENJOINED, pursuant to R.C. 1354.07(B), from engaging in consumer transactions as suppliers in the State of Ohio until all monetary amounts ordered to be paid in this action have been satisfied.

H. Defendants are ORDERED to pay Plaintiff's collection costs and interest on the unpaid balance of this judgment as permitted by Ohio law.

I. Defendants are ORDERED to pay all court costs associated with this matter.

IT IS SO ORDERED.

Date



JUDGE PEELER

Submitted By:

DAVE YOST
Ohio Attorney General

/s/ Paige E. Weinstein
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TO THE CLERK:

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

Duane Milby, Conex Express, LLC, and Conex Pro, LLC
1002 Columbus Hines Way
Lebanon, Ohio 45345