

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

FILED
COURT OF COMMON PLEAS
TUSCARAWAS COUNTY, OHIO

2017 APR 24 PM 2:35

STATE OF OHIO ex rel.
ATTORNEY GENERAL
MICHAEL DEWINE
30 E. Broad St., 14th Floor
Columbus, Ohio 43215

Case No:

2017 CV 04 0284

Judge:

Plaintiff,

ELIZABETH L. THOMAKOS, JUDGE

v.

MICHAEL LOHR, individually
and dba FIREBIRD WASTE
& RECYCLING, INC.,
3314 Overlook Dr.
Akron, Ohio 44312

and

SHIRLEY BENNETT-LOHR, individually
and dba FIREBIRD WASTE &
RECYCLING, INC.,
3314 Overlook Dr.
Akron, Ohio 44312

Defendants.

COMPLAINT AND REQUEST FOR
DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF, CIVIL
PENALTIES, AND OTHER
APPROPRIATE RELIEF

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through its counsel, the Attorney General of Ohio, Michael DeWine, having reasonable cause to believe that violations of Ohio's consumer protection laws have occurred, brings this action 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.

2. The actions of Michael Lohr individually and dba Firebird Waste & Recycling, Inc. and Shirley Bennett-Lohr individually and dba Firebird Waste & Recycling, Inc. ("Defendants"), hereinafter described, have occurred in Tuscarawas County and other counties in the State of Ohio and, as set forth below, are in violation of the Consumer Sales Practices Act ("CSPA"), R.C.1345.01, et seq.
3. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(2) and (3).

DEFENDANTS

5. Defendants are natural people residing at 3314 Overlook Dr. Akron, Ohio 44312.
6. The principle place of business for Firebird Waste & Recycling, Inc. was 121 S. Romig St. Uhrichsville, Ohio 44683.
7. Defendants are "suppliers," as that term is defined in R.C. 1345.01(C), as they have engaged in the business of effecting "consumer transactions" by soliciting consumers either directly or indirectly for home waste removal services for a fee, within the meaning of R.C. 1345.01(A).
8. Firebird Waste & Recycling, Inc. is registered as a Corporation with the Ohio Secretary of State.

STATEMENT OF FACTS

9. Firebird Waste & Recycling, Inc. filed for bankruptcy in the United States Bankruptcy Court in the Northern District of Ohio on February 8, 2017. The bankruptcy case is still pending.

10. Defendants accepted monetary deposits from consumers for a monthly trash removal service and dumpster rental and then failed to deliver the goods and services within eight weeks.
11. Defendants have failed to refund consumers' deposits or payments despite consumers' requests for refund.

COUNT I- FAILURE TO DELIVER

12. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-11 of this Complaint.
13. Defendants committed unfair or deceptive acts and 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 goods or services and then permitting eight weeks to elapse without making shipment or delivery of the goods or services ordered.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

- A. ISSUE A DECLARATORY JUDGMENT that each act or practice complained of herein violates the CSPA and its Substantive Rules in the manner set forth in the Complaint.
- B. ISSUE A PERMANENT INJUNCTION enjoining the Defendants, their agents, servants, 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, from engaging in the acts and practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 et seq.

- C. ORDER Defendants, pursuant to R.C. 1345.07(B), to pay all actual damages, including non-economic damages, to all consumers injured by the conduct of the Defendants as set forth in this Complaint.
- D. ASSESS, FINE and IMPOSE upon Defendants a civil penalty of \$25,000.00 for each separate and appropriate violation of the CSPA described herein pursuant to R.C. 1345.07(D).
- E. ISSUE AN INJUNCTION prohibiting Defendants from engaging in any consumer transactions as a supplier in this state until such time as Defendants have satisfied all monetary obligations ordered pursuant to this litigation.
- F. GRANT Plaintiff its costs incurred in bringing this action.
- G. ORDER Defendants to pay all court costs associated with this matter.
- H. GRANT such other relief as the court deems to be just, equitable, and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General

/s/Jennifer L. Mildren
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