

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

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

Plaintiff,)

v.)

PRIME TECHNOLOGIES, LLC)
220 Heritage West Court)
Greenwood, SC 29649)

and)

LINDA BROWN MASSEY, individually)
220 Heritage West Court 2E)
Greenwood, SC 29649)

Defendants.)

CASE NO.

JUDGE

COMPLAINT AND REQUEST
FOR DECLARATORY
JUDGMENT, INJUNCTIVE
RELIEF, CONSUMER
RESTITUTION, AND
CIVIL PENALTIES

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through Attorney General 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 the Attorney General by R.C. 1345.01 et seq.
2. The acts and practices of Defendants which give rise to this action occurred in the State of Ohio, including in Franklin County, and constitute violations of the Consumer Sales Practices Act, R.C. 1345.01 et seq. (“CSPA”) and the Telephone Solicitation Sales Act, R.C. 4719.01 et seq. (“TSSA”).

3. This Court has jurisdiction over the subject matter of this action pursuant to the CSPA, R.C. 1345.04 and R.C. 109.87(D)(1).
4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3) in that Franklin County, Ohio is the county in which Defendants conducted some of the transactions complained of herein.

DEFENDANTS

5. Defendant Prime Technologies, LLC (“Prime Technologies”) is a South Carolina Limited Liability Company with its principal place of business located at 220 Heritage West Court, Greenwood, South Carolina 29649.
6. Defendant Linda Brown Massey (“Massey”) is an individual who resides at 220 Heritage West Court 2E, Greenwood, South Carolina 29649.
7. On information and belief, Defendant Massey at all times pertinent hereto directed, controlled, and participated in the business activities and sales conduct of Defendant Prime Technologies, including the conduct giving rise to the violations described herein.
8. Defendants Massey and Prime Technologies are jointly and individually engaged in the business of selling computer maintenance and anti-virus software to consumers in the State of Ohio.
9. Defendants are “suppliers” as they were, at all times relevant herein, engaged in the business of effecting “consumer transactions” either directly or indirectly by soliciting and selling goods or services to consumers in the State of Ohio for purposes that were primarily personal, family or household in nature, as those terms are defined in the CSPA, R.C. 1345.01(A), (C), and (D).

10. Defendants are “telephone solicitors,” as that term is defined in R.C. 4719.01(A)(8), since Defendants are, and have been at all relevant times, engaged in telephone solicitation, within the meaning of R.C. 4719.01(A)(7).

11. Defendants initiated “telephone solicitations” to “purchasers,” as Defendants were at all times relevant herein, engaged in “communications” initiated on behalf of “telephone solicitors” or “salespersons” to induce persons to purchase “goods or services,” as those terms are defined in the TSSA, R.C. 4719.01(A).

STATEMENT OF FACTS

12. Defendants directly solicit Ohio consumers by calling their home telephone numbers.

13. Defendants represent that the consumer’s computer has been hacked and now has a virus from either Russia or Nigeria.

14. Defendants solicit consumers to pay various amounts of money for Prime Technologies to remove the virus, clean the computer, install new protective software, and provide continued technical support.

15. Defendants charged and accepted money from consumers as payment for Defendants’ goods and services, with payments ranging from \$200 to \$15,593.

16. On information and belief, Defendants contact consumers several months after the initial interaction or payment and instruct them to send additional payment, claiming that the consumer’s computer has been infected with a different virus.

17. Defendants’ solicitations made false or misleading statements concerning material terms of the transaction including, but not limited to: statements about the condition of a consumer’s computer and Defendants’ ability to protect consumers’ computers.

18. Defendants failed to deliver the goods, services, or results they promised and represented to consumers.
19. On information and belief, Defendants installed defective malware protection and faulty anti-virus programs on several consumers' computers.
20. Several consumers had to pay additional costs to have their computers serviced by other companies in order to remove the deficient software installed by Defendants.
21. Defendants failed to obtain the original, signed copies of their sales confirmation paperwork from consumers and failed to provide most consumers with itemized receipts.
22. Defendants have failed to register with the Ohio Attorney General's Office prior to acting as telephone solicitors in the State of Ohio.
23. Defendants also failed to register Prime Technologies as a foreign LLC with the Ohio Secretary of State.

PLAINTIFF'S FIRST CAUSE OF ACTION:
VIOLATIONS OF THE CSPA

COUNT ONE
FAILURE TO DELIVER OR REFUND

24. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Twenty-Three (1-23) of this Complaint.
25. Defendants committed unfair and deceptive acts or practices in violation of R.C. 1345.02(A) and Ohio Adm. Code 109:4-3-09, by accepting money from consumers for goods or services and failing to make full delivery or provide refunds to the consumers.
26. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendants committed these violations after such court decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT TWO
MISREPRESENTING DELIVERY OF SERVICES

27. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Twenty-Three (1-23) of this Complaint.
28. Defendants have committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) and R.C. 1345.02(B)(5), by representing that services have been supplied to consumers in accordance with a previous representation, when they have not.
29. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendants committed these violations after such court decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT THREE
ENTERING INTO TRANSACTIONS WITHOUT SUBSTANTIAL BENEFIT

30. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Three (1-23) of this Complaint.
31. Defendants have committed unconscionable acts or practices in violation of the CSPA, R.C. 1345.03(A), as set forth in R.C. 1345.03(B)(3), by entering into consumer transactions with knowledge of consumers' inability to receive a substantial benefit from their services.
32. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendants committed these violations after such court decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

PLAINTIFF'S SECOND CAUSE OF ACTION:
VIOLATIONS OF THE TSSA

COUNT ONE
FAILURE TO REGISTER AS TELEPHONE SOLICITORS

33. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Twenty-Three (1-23) of the Complaint.
34. Defendants engaged in telephone solicitations while failing to obtain a certificate of registration as a telephone solicitor from the Ohio Attorney General in violation of R.C. 4719.02(A) of the TSSA and R.C. 1345.02(A) of the CSPA.
35. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendants committed these violations after such court decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT TWO
FAILURE TO OBTAIN A SURETY BOND

36. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Twenty-Three (1-23) of the Complaint.
37. Defendants violated the TSSA, R.C. 4719.04(A), by acting as telephone solicitors in the State of Ohio without first having obtained a surety bond issued by a state-certified surety company and satisfying all other requirements relating to such surety bond.

COUNT THREE
MAKING FALSE OR MISLEADING STATEMENTS TO INDUCE PAYMENT

38. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Twenty-Three (1-23) of the Complaint.
39. Defendants made false or misleading statements to induce consumers to pay for goods or services in violation of R.C. 4719.08(G) of the TSSA and R.C. 1345.02(A) of the CSPA.

40. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendants committed these violations after such court decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT FOUR
MAKING MISREPRESENTATIONS WHILE TELEPHONE SOLICITING

41. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Three (1-23) of this Complaint.

42. Defendants violated the TSSA, R.C. 4719.08(F) and the CSPA, R.C. 1345.02(A) by misrepresenting all of the following:

- a. Material aspects of the performance, efficacy, nature, or characteristics of their services; and
- b. The physical condition of the consumers' hard drives.

43. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendants committed these violations after such court decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT FIVE
FAILURE TO OBTAIN WRITTEN CONFIRMATION

44. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Twenty-Three (1-23) of the Complaint.

45. Defendants failed to obtain the original, signed copy of their sales confirmations from consumers in violation of R.C. 4719.07 of the TSSA and R.C. 1345.02(A) of the CSPA.

46. Such acts and practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant committed said violation after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

PRAYER FOR RELIEF

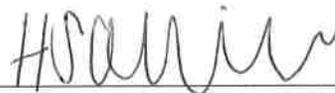
WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

- A. ISSUE an order declaring that each act or practice complained of herein violates the CSPA and the TSSA in the manner set forth above.
- B. ISSUE a permanent injunction enjoining Defendants Massey and Prime Technologies, their agents, servants, representatives, salespersons, employees, successors and 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 acts or practices described in this Complaint and from further violating the CSPA and TSSA.
- C. ORDER Defendants Massey and Prime Technologies, jointly and individually liable for reimbursement to all consumers injured by the conduct of the Defendants as set forth in the complaint.
- D. ISSUE a permanent injunction prohibiting Defendants Massey and Prime Technologies, 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 due hereunder.
- E. ASSESS, FINE and IMPOSE upon Defendants Massey and Prime Technologies, jointly and individually, a civil penalty of Twenty-Five Thousand Dollars (\$25,000) for each separate and appropriate violation of the CSPA as described herein pursuant to R.C. 1345.07(D).

- F. ASSESS, FINE, AND IMPOSE upon Defendants Massey and Prime Technologies, jointly and individually, a civil penalty of not less than One Thousand Dollars (\$1,000.00) nor more than Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation of the TSSA as set forth in this Complaint, pursuant to R.C. 4719.12(B).
- G. DECLARE that any contract that was entered into as a result of a Telephone Solicitation Sale, as defined by R.C. 4719.01(A)(7), that was not followed by a signed, written confirmation as required by R.C. 4719.07, is entitled to be cancelled or is void and unenforceable.
- H. GRANT the Ohio Attorney General all costs incurred in this action, including all investigative expenses and reasonable attorney's fees, pursuant to R.C. 4719.12(A).
- I. ORDER Defendants to pay all court costs.
- J. GRANT such other relief as the Court deems to be appropriate, just, and equitable.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General



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