

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

2015 11 2656
MARY L. SWAIN
BUTLER COUNTY
CLERK OF COURTS

STATE OF OHIO ex rel. ATTORNEY
GENERAL MICHAEL DEWINE
441 Vine Street, 1600 Carew Tower
Cincinnati, Ohio 45202

Plaintiff,

v.

US Beef Cincinnati LLC
c/o United States Corporation Agents Inc.
3250 West Market Street, Ste. 205
Fairlawn, OH 44333

And

Joey Lightcap Traum
5935 Orchard Hills Lane
Cincinnati, OH 45252

Defendants.

MARY L. SWAIN
CLERK OF COURTS
NOV 18 2015
FILED in Common Pleas Court
BUTLER COUNTY, OHIO

Case No.

Judge

**COMPLAINT FOR DECLARATORY
JUDGMENT, INJUNCTIVE RELIEF,
RESTITUTION AND CIVIL PENALTIES**

JURISDICTION

1. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Michael DeWine, having reasonable cause to believe that violations of Ohio's consumer 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. 1345.07.
2. The actions of Defendants, as described below, have occurred in counties throughout Ohio, including Butler County, and, as set forth below, are in violation of the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq., its Substantive Rules, O.A.C. 109:4-3-01 et seq., and the Home Solicitation Sales Act ("HSSA"), R.C. 1345.21 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)(2-3) in that the Defendants had their principal place of business in Butler County and Butler County is a county in which the Defendants conducted activity that gave rise to the claim for relief.

STATEMENT OF FACTS

5. Defendant Joey Lightcap Traum is a natural person who resides at 5935 Orchard Hills Lane, Cincinnati, Ohio 45252.
6. Defendant US Beef Cincinnati LLC is an Ohio limited liability company operating at 3210 Profit Drive, Fairfield, Ohio 45014.
7. Defendant Traum has an ownership interest in and operates Defendant US Beef Cincinnati LLC and dominated, controlled and directed the business activities and sales conduct of US Beef Cincinnati LLC, and exercised the authority to establish, implement or alter the policies of US Beef Cincinnati LLC, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
8. At all times relevant to this action, Defendants engaged in business using the fictitious name US Beef.
9. Defendants' principal place of business is 3210 Profit Drive, Fairfield, Ohio 45014.
10. Defendants are "suppliers" as that term is defined in R.C. 1345.01(C), as they were, at all times relevant herein, engaged in the business of effecting consumer transactions by soliciting and providing services to individuals for purposes that were primarily personal, family, or household within the meaning specified in R.C. 1345.01(A) and (D).

11. Defendants engaged in “home solicitation sales” as that term is defined in R.C. 1345.21(A), as they were, at all times relevant herein, engaged in personal solicitations at the residence of buyers.
12. At all times relevant to this action, Defendants engaged in the business of advertising, soliciting, offering, and selling beef and other food products to consumers using the fictitious name US Beef.
13. Defendants solicited, offered, and sold beef and other food products by going to consumers’ residences.
14. Defendants misrepresented the amount and weight of the products being sold to consumers.
15. On its website Defendants state that “We guarantee our products for taste, tenderness, flavor and freshness for up to one year in the freezer. If you are not satisfied we will replace or exchange your product.”
16. Defendants failed to honor this guarantee.
17. When consumers would complain about the quality of the products, Defendants would ignore them and not replace or exchange the product.
18. Defendants would misrepresent the reason that the beef or food product was available.
19. Defendants would state that a consumer’s neighbor was a customer to induce the consumer to make a purchase when in fact no neighbor was a customer.
20. Defendants would state that they had leftover beef from another sale and could offer a discount to induce the consumer to make a purchase when this was not true.
21. At the time of the transactions, Defendants failed to inform consumers of their three day right to cancel.
22. Defendants failed provide consumers with a notice of their three day right to cancel.

23. Defendants failed provide consumers with a cancellation form.
24. All facts alleged above have occurred in the last two years prior to this lawsuit.

COUNT I - MISREPRESENTATIONS

25. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-24 of this Complaint.
26. Defendants committed unfair or deceptive acts or practices in violation of R.C. 1345.02(B)(2) of the CSPA, by representing that the subject of a consumer transaction was of a particular standard, quality, grade, style, prescription, or model, when it was not.
27. Defendants committed unfair or deceptive acts or practices in violation of R.C. 1345.02(B)(4) of the CSPA, by representing that the subject of a consumer transaction was available to the consumer for a reason that did not exist.
28. Defendants committed unfair or deceptive acts or practices in violation of R.C. 1345.02(B)(10) of the CSPA, by falsely representing that a consumer transaction involved a warranty.
29. Such acts or practices 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.

COUNT II – VIOLATIONS OF THE HOME SOLICITATION SALES ACT

30. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-24 of this Complaint.
31. Defendants violated the HSSA, R.C. 1345.23, and CSPA R.C. 1345.02(A), by failing to provide notice to consumers of their right to cancel their contract by a specific date and by failing to give consumers a cancellation form.

32. Such acts or practices 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.

PRAYER FOR RELIEF

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

- A. ISSUE a permanent injunction enjoining Defendants, doing business as US Beef or under any other names, their agents, representatives, salespeople, employees, successors, or assigns, and all persons acting in concert and participation with them, directly or indirectly, from committing any unfair, deceptive, or unconscionable act or practice that violates the CSPA, R.C. 1345.01 *et seq.*, its Substantive Rules, O.A.C. 109:4-3-01 *et seq.*, and/or the HSSA, R.C. 1345.21 *et seq.*, including, but not limited to, violations of the specific code sections and rules set forth herein.
- B. DECLARE that each act or practice complained of herein violates the CSPA and its Substantive Rules in the manner set forth in this Complaint.
- C. ASSESS, FINE, AND IMPOSE upon Defendants a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein, pursuant to R.C. 1345.07(D).
- D. ORDER Defendants to pay damages, including non-economic damages, to all consumers injured by the conduct of the Defendants as set forth in this Complaint.
- E. ISSUE an Injunction prohibiting Defendants 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, related to the conduct set forth herein.

- F. GRANT the Ohio Attorney General his costs in bringing this action.
- G. ORDER Defendants to pay all court costs.
- H. GRANT such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General



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