

IN THE COURT OF COMMON PLEAS
PORTAGE COUNTY, OHIO

FILED
COURT OF COMMON PLEAS
SEP 30 2016
JILL FANKHAUSER, Clerk
PORTAGE COUNTY, OH

STATE OF OHIO, ex rel.
MICHAEL DEWINE
ATTORNEY GENERAL OF OHIO
State Office Building, 11th Fl.
615 West Superior Avenue
Cleveland, Ohio 44113-1899

Plaintiff,

-vs-

Fairview Memorial Park, Inc.
5400 Lakewood Road
Ravenna, Ohio 44266

And

Grandview Memorial Park, Inc.
5400 Lakewood Road
Ravenna, Ohio 44266

And

Theodore L. Martin, Jr.
5400 Lakewood Road
Ravenna, Ohio 44266

And

Armina Martin
5400 Lakewood Road
Ravenna, Ohio 44266

Defendants.

CASE NO.

JUDGE

2016CV00883

JUDGE LAURIE J. PITTMAN

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

DESIGNATION: OTHER CIVIL
CONSUMER PROTECTION

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 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. (the Ohio Consumer Sales Practices Act).

2. The actions of Defendants, hereinafter described, have occurred in the State of Ohio, County of Portage, and as set forth below, are in violation of R.C. 1345.01 et seq.

3. Defendants are “suppliers”, as that term is defined in R.C. 1345.01(C), as Defendants are engaged in the business of effecting “consumer transactions” by offering cemetery headstones, vaults, memorial items and other related goods for a fee, within the meaning of R.C. Section 1345.01(A).

4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3), in that some of the transactions complained of herein, and out of which this action arose, occurred in Portage County.

STATEMENT OF FACTS

5. Defendants solicited consumers for cemetery headstones, vaults, memorial items and other related goods in Ohio. Defendants Fairview Memorial Park and Grandview Memorial Park are incorporated, and are located in Ravenna, Portage County. Fairview Memorial Park and Grandview Memorial Park are registered with the

Ohio Secretary of State as nonprofit corporations. Defendants operate at 5400 Lakewood Road, Ravenna, Ohio.

6. Defendants Martin and Martin owned and operated Defendants Fairview Memorial Park and Grandview Memorial Park and dominated, controlled and directed the business activities and sales conduct of both Fairview Memorial Park and Grandview Memorial Park, and exercised the authority to establish, implement or alter the policies of Fairview Memorial Park and Grandview Memorial Park, and committed, allowed, directed ratified or otherwise caused the following unlawful acts to occur.

7. Defendants accepted money or credit cards from consumers for cemetery headstones, vaults, memorial items, and other related goods; and failed to deliver those cemetery headstones, vaults, memorial items, and other related goods to those consumers who paid or had prepaid for those items.

PLAINTIFF'S CAUSE OF ACTION

COUNT ONE

FAILURE TO DELIVER

8. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Seven (1-7) of this Complaint.

9. Defendants have committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) and the Ohio Administrative Code 109:4-3-09, by accepting money from consumers for cemetery headstones, vaults, memorial items, and other related goods and failing to make full delivery or a refund.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

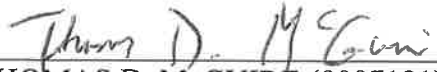
1. **ISSUE** a permanent injunction enjoining Defendants, under these or any other names, their agents, servants, representatives, salesmen, employees, successors and assigns and all persons acting in concert or participation with Defendants, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains;
2. **ISSUE** a declaratory judgment declaring that each act or practice complained of in this Complaint violates the Consumer Sales Practices Act, and the Substantive Rules contained in the Ohio Administrative Code in the manner set forth in this Complaint;
3. **IMPOSE** upon Defendants civil penalties in the amount of Twenty-Five Thousand Dollars (\$25,000.00) for each violation pursuant to R.C. 1345.07(D);
4. **ORDER** Defendants to reimburse consumers who have been injured by the acts and practices of which Plaintiff complains;
5. As a means of ensuring compliance with this Court's Order and with the consumer protection laws of Ohio, **ORDER** Defendants, their successors or assigns, under these or any other names, to maintain in their possession and control for a period of five (5) years all business records relating to Defendants' solicitation or effectuation of business in Ohio and to permit the Ohio Attorney General or his representative, upon reasonable twenty-four (24) hour notice, to inspect and/or copy any and all of said records and further **ORDER** that copies of such records be provided at Defendants' expense to the Ohio Attorney General upon request of the Ohio Attorney General or his

representatives;

6. **GRANT** Plaintiff his costs in bringing this action;
7. **ORDER** Defendants to pay all court costs.
8. **GRANT** such further relief as justice and equity require.

Respectfully submitted,

MICHAEL DEWINE
ATTORNEY GENERAL



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