

IN THE COURT OF COMMON PLEAS
PORTAGE COUNTY, OHIO

FILED
COURT OF COMMON PLEAS

SEP 02 2014

LINDA K. FANKHAUSER, CLERK,
PORTAGE COUNTY, OHIO

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-

ROUND HOUSE RACING, LLC.
1460 North Main
Spanish Fork, Utah 84660

Defendant.

CASE NO.

JUDGE

2014CV00707

JUDGE JOHN A. ENLOW

COMPLAINT, REQUEST FOR
DECLARATORY AND
INJUNCTIVE
RELIEF, CONSUMER
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 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. Section 1345.01 et seq. (the Ohio Consumer Sales Practices Act).

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

3. Defendant is a "supplier", as that term is defined in R.C. Section

1345.01(C), as Defendant engaged in the business of effecting “consumer transactions” by offering racing services 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. Defendant Round House Racing, LLC. solicited consumers for racing services in Ohio. Defendant’s business is incorporated, and is located in Spanish Fork, Utah. “Road House Racing, LLC.” is registered with the Utah Department of Commerce as a corporation. Defendant operates at 1460 North Main, Spanish Fork, Utah.

6. Defendant failed to deliver a racing event paid in advance by consumers. Defendant accepted money via credit cards, merchant bank cards and on-line payment systems for a planned race on July 19, 2014 in Garrettsville, Ohio called “Foam Fest 2014”, which was to raise some proceeds for a charity titled A Child’s Hope Foundation. Days before the race was scheduled, consumers received emails notifying them of the cancellation of the race and were told their monies would not be refunded. Some consumers have received chargebacks from their card issuers.

PLAINTIFF’S CAUSE OF ACTION

COUNT ONE

FAILURE TO DELIVER

7. Plaintiff incorporates by reference, as if completely rewritten herein, the

allegations set forth in Paragraphs One through Six (1-6) of this Complaint.

8. 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 services and failing to make full delivery or a refund.

COUNT TWO

DEPOSIT RULE

9. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Six (1-6) of this Complaint.

10. Defendants have committed unfair and deceptive acts and practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) and Ohio Administrative Code 109:4-3-07 (B)(5) by failing to disclose at the time monies were paid the conditions and limitations of refunds.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. **ISSUE** a permanent injunction enjoining Defendant, under this or any other names, its agents, servants, representatives, salesmen, employees, successors and assigns and all persons acting in concert or participation with Defendant, 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 Ohio 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 Defendant civil penalties in the amount of Twenty-Five Thousand Dollars (\$25,000.00) for each violation pursuant to Ohio Revised Code 1345.07(D);

4. **ORDER** Defendant 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** Defendant, its successors or assigns, under this or any other names, to maintain in its possession and control for a period of five (5) years all business records relating to Defendant's 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 Defendant's 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** Defendant 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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