

FILED

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

2013 JAN 23 A 9:12

STATE OF OHIO, ex rel.)
 ATTORNEY GENERAL)
 MICHAEL DEWINE)
 615 W. Superior Ave. 11th Floor)
 Cleveland, OH 44113-1899)
)
 Plaintiff,)
)
 v.)
)
 C.O.O.L. LLC)
 c/o Jean Effinger, Statutory Agent)
 14825 Janice Dr.)
 Maple Heights, Ohio 44137)
)
 and)
)
 PMK CUSTOMS LLC)
 c/o Jean Effinger, Statutory Agent)
 14825 Janice Dr.)
 Maple Heights, Ohio 44137)
)
 and)
)
 ANDRE SCOTT)
 14825 Janice Dr.)
 Maple Heights, Ohio 44137)
)
 Defendants.)

CASE NO.

Judge: CASSANDRA COLLIER-WILLIAMS
CV 13 799886

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

JURISDICTION

1. Michael DeWine, Attorney General of Ohio, 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,

including in Cuyahoga County and, as set forth below, are in violation of the Consumer Sales Practices Act, 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 Consumer Sales Practices Act.
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 Cuyahoga County.

DEFENDANTS

5. Defendant C.O.O.L. LLC, (hereinafter “Cool” or “Defendant”) is an Ohio limited liability company doing business as “Pimp My Kicks” with its principal place of business located in Bedford Heights, Cuyahoga County, Ohio. “Pimp My Kicks” is a registered trade name of C.O.O.L. LLC.
6. Defendant PMK Customs LLC (hereinafter “PMK Customs” or “Defendant”) is an Ohio limited liability company doing business as “Pimp My Kicks” with its principal place of business located in Bedford Heights, Cuyahoga County, Ohio.
7. On information and belief, PMK Customs is also the successor corporation of Cool and is subject to successor liability for any of Cool’s debts.
8. Defendant Andre Scott (hereinafter “Scott” or “Defendant”) is an individual currently residing at 14825 Janice Dr. Maple Heights, Ohio 44137. On information and belief, Defendant Scott dominated, controlled and directed the business activities and sales conduct of Defendant Cool and Defendant PMK Customs, causing, personally participating in, or ratifying the acts and practices of Defendants Cool and PMK Customs.

9. Defendants are "suppliers," as that term is defined at R.C. 1345.01(C), as Defendants are engaged in the business of effecting "consumer transactions", within the meaning of R.C. 1345.01(A) by offering the sale of athletic shoes and custom design services.

STATEMENT OF FACTS

10. Defendants have solicited consumers for the sale of goods and services in Cuyahoga County, Ohio, including the sale of athletic shoes and custom design services whereby Defendants design the exterior and soles of the shoes. Defendants sell "in-house" designs as well as designs created with input from the consumer.

11. Defendants have entered into consumer transactions with numerous individuals from the U.S. and overseas. Defendants collected payment in advance for all goods and services sold.

12. On numerous occasions, consumers ordered Defendant's goods or services and failed to receive delivery within eight weeks of placing their order and did not receive refunds of advance payments.

PLAINTIFF'S CAUSE OF ACTION

VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT

FAILURE TO DELIVER

13. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twelve (1-12) of this Complaint.

14. Defendants have committed unfair or deceptive acts or practices in violation of the Failure to Deliver Rule, Ohio Admin. Code 109:4-3-09(A)(1) and the Consumer Sales Practices Act, R.C. 1345.02(A), by accepting payments from consumers for the sale of athletic shoes and custom design services, then failing to deliver the goods

and/or services purchased or to return payments to consumers.

15. The act or practice of accepting payments from consumers, then failing to deliver the goods and/or services purchased or to return down payments to consumers has been previously declared to be deceptive by rule adopted pursuant to division (B)(2) of R.C. 1345.05 before the consumer transaction on which this action is based occurred.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. **ISSUE** a permanent injunction enjoining Defendants, under the names listed in this Complaint, or any other names, their agents, servants, representatives, salesmen, employees, successors and assigns and all persons acting in concert or participating with Defendants, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains, or violating the Consumer Sales Practices Act, and the Substantive Rules contained in the Ohio Administrative Code, and from engaging in consumer transactions in the State of Ohio until full restitution is made to all consumers harmed by Defendants' actions.
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, jointly and severally, civil penalties in the amount of Twenty-Five Thousand Dollars (\$25,000.00) for each appropriate violation of the Consumer Sales Practices Act pursuant to R.C. 1345.07(D);
4. **ORDER** Defendants, jointly and severally, to reimburse consumers who have been injured by the acts and practices of which Plaintiff complains;
5. As a means of insuring 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. **GRANT** such further relief as justice and equity require.

Respectfully submitted,

MICHAEL DEWINE
Attorney General



MICHAEL R. SLIWINSKI (0076728)
Assistant Attorney General
Consumer Protection Section
615 W. Superior Ave 11th Floor
Cleveland, Ohio 44113
(216) 787-3104
(877) 616-5276 (fax)
Michael.sliwinski@ohioattorneygeneral.gov

Counsel for Plaintiff