

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO, *ex rel.*)
MICHAEL DEWINE)
ATTORNEY GENERAL OF OHIO)
30 East Broad Street)
State Office Tower -14th Floor)
Columbus, Ohio 43215-3428)

CASE NO.

JUDGE

Plaintiff,)

FBK PRODUCTS, LLC.)
5601 Corporate Way, Suite 320)
West Palm Beach, Florida 33407)

**COMPLAINT, REQUEST
FOR DECLARATORY AND
INJUNCTIVE RELIEF,
DAMAGES AND CIVIL
PENALTIES**

And)

FBK Holdings, LLC.)
5601 Corporate Way, Suite 320)
West Palm Beach, Florida 33407)

And)

GARY KRANZ)
5501 N. Military Trail, Apt 106N)
Boca Raton, Florida 33496)

And)

STEVEN KRANZ)
21 Sunnyside Lane)
Westport, Connecticut 06880)

And)

MARC RONA)
2284 Hercules Drive)
Los Angeles, California 90046)

Defendants.)

JURISDICTION

1. Ohio Attorney General Michael DeWine, brings this action pursuant to the authority vested in him by the Consumer Sales Practices Act (“CSPA,”) Ohio Revised Code

("R.C.") 1345.01 et seq., the Telephone Solicitation Sales Act ("TSSA,") R.C. 4719.01 et seq., and R.C. 109.87.

2. The actions of the Defendants FBK Products, LLC., FBK Holdings, LLC., Gary Kranz, Steven Kranz, and Marc Rona (collectively as "Defendants") occurred in Franklin County and other counties in the State of Ohio, and as set forth below are in violation of the CSPA, R.C. 1345.01 et seq., the TSSA, R.C. 4719.01 et seq. and R.C. 109.87.
3. The actions of the Defendants as set forth below are in violation of the Telephone Consumer Protection Act ("TCPA,") 47 United States Code Service ("U.S.C.S.") 227 and 47 Code of Federal Regulations ("C.F.R.") 64.1200. Attorney General Michael DeWine brings this action for violations of the federal TCPA in state court pursuant to R.C. 109.87 which authorizes the Attorney General to bring an action in a court of common pleas against a seller or telemarketer who violates any provision of federal acts or rules as defined by R.C. 109.87(A)(1).

STATEMENTS OF FACT

4. Defendant FBK Holdings, LLC is a limited liability company organized under the laws of the State of Florida with its principal place of business at 5601 Corporate Way, Suite 320, West Palm Beach, Florida 33407. Gary Kranz serves as the Chief Executive Officer and Stephen Kranz and Marc Rona serve as the Managing Members.
5. Defendant FBK Products, LLC is a limited liability company organized under the laws of the State of Florida with its principal place of business at 5601 Corporate Way, Suite 320, West Palm Beach, Florida 33407. Gary Kranz serves as the Chief Executive Officer and Stephen Kranz and Marc Rona serve as the Managing Members.
6. Defendant Gary Kranz is an individual and resident of the State of Florida. While acting as the Chief Executive Officer of Defendants FBK Holdings, LLC. and FBK Products,

LLC., he committed, allowed, directed, ratified, participated in or otherwise caused the unlawful acts and practices described herein to occur.

7. Defendant Steven Kranz is an individual and resident of the State of Connecticut. While acting as a Managing Member of Defendants FBK Holdings, LLC. and FBK Products, LLC., he committed, allowed, directed, ratified, participated in or otherwise caused the unlawful acts and practices described herein to occur.
8. Marc Rona is an individual and resident of the State of California. While acting as a Managing Member of Defendants FBK Holdings, LLC. and FBK Products, LLC., he committed, allowed, directed, ratified, participated in or otherwise caused the unlawful acts and practices described herein to occur.
9. Defendants are “suppliers” as they were, at all times relevant herein, engaged in the business of effecting “consumer transactions” by soliciting, offering for sale and selling residential septic system and other household goods and/or services to “consumers” in the State of Ohio, including Franklin County, 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 “sellers” and/or “telemarketers” as those terms are defined in C.F.R. 64.1200(f)(7) and (9) as Defendants are the persons and/or entities on whose behalf telephone calls or messages are initiated for the purpose of encouraging the purchase or rental of goods or services, which is transmitted to any person.
11. Defendants engage in “telephone solicitations” as that term is defined in 47 U.S.C. 227(a)(4) of the TCPA.
12. Defendants are “telephone solicitors” as that term is defined in R.C. 4719.01(A)(8), as Defendants were at all times relevant herein, engaged in telephone solicitations directly

or through one or more salespersons from a location outside this state, to persons in this state.

13. Defendants initiated “telephone solicitations” to “purchasers,” as they 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).
14. Defendants, either directly or as a result of a third party acting on their behalf, engaged in patterns or practices of initiating telephone solicitations to residential telephone subscribers in the State of Ohio, whose telephone numbers were listed on the National Do Not Call Registry.
15. Defendants, either directly or as a result of a third party acting on their behalf, engaged in patterns or practices of initiating telephone solicitations to residential telephone subscribers in the State of Ohio, whose previous requests not to receive calls from that entity were not honored within a reasonable time frame, not to exceed thirty days, from the date such request was made.
16. Despite having received written correspondence from the Ohio Attorney General in June of 2009 regarding compliance with the TSSA, Defendants are not and never have been registered as “telephone solicitors” with the Ohio Attorney General's Office as required by the TSSA, 4719.02(A).
17. Defendants did not obtain, nor file with the Ohio Attorney General, a surety bond issued by a surety company authorized to do business in the State of Ohio as required by the TSSA, R.C. 4719.04.
18. Defendants submitted charges to Ohio purchasers’ bank or credit card accounts without having obtained from purchasers original copies of written confirmations signed by the

purchasers which complied with TSSA, R.C. 4719.07(C) or without being exempt from the requirements to obtain written confirmations pursuant to the TSSA, R.C. 4719.07(H).

19. Defendants had numerous occasions in which the Attorney Generals from Missouri,¹ Pennsylvania² and Ohio raised concerns directly with the Defendants regarding their calling practices failing to comply do not call regulations. Yet, the Defendants violative telemarketing practices continued.

PLAINTIFF'S FIRST CAUSE OF ACTION:

**VIOLATIONS OF THE CSPA, TCPA AND R.C. 109.87
FAILURE TO COMPLY WITH DO NOT CALL LAWS**

20. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Nineteen (1-19) of the Complaint.
21. Defendants violated the CSPA, R.C. 1345.02(A) and 1345.03(A) and R.C. 109.87(B)(1) by engaging in patterns or practices of initiating telephone solicitations to residential telephone subscribers, including subscribers in Franklin County and in the State of Ohio, whose telephone numbers were listed on the National Do Not Call Registry. Defendants' conduct is prohibited by the TCPA, 47 U.S.C. 227 and 47 C.F.R. 64.1200(c)(2).
22. Defendants violated the CSPA, R.C. 1345.02(A) and 1345.03(A) and R.C. 109.87(B)(1) by engaging in patterns or practices of initiating telephone solicitations to residential telephone subscribers, including subscribers in Franklin County and in the State of Ohio, whose previous specific requests to not receive calls from that entity were not honored within a reasonable time frame, not to exceed thirty days from the date such request was

¹ Defendants FBK Products, LLC, Steven Kranz and Gary Kranz entered into an agreement in July of 2009 with the Missouri Attorney General related to violations of no-call laws.

² Defendant FBK Products, LLC. entered into an Assurance of Voluntary Compliance in July of 2010 to resolve an investigation into complaints that the company repeatedly called and solicited business from consumers enrolled in Pennsylvania's Do Not Call Registry.

made. Defendants' conduct is prohibited by the TCPA, 47 U.S.C. 227 and 47 C.F.R. 64.1200(c)(2) and (d)(3).

23. Pursuant to R.C. 1345.07, the Plaintiff is seeking civil penalties for violations of the CSPA. The acts or practices of the Defendants as described herein have been previously determined by an Ohio court to violate R.C. 1345.01 et seq. Defendants committed said violations after the decision was available for public inspection pursuant to R.C. 1345.05(A)(3).
24. Pursuant to R.C. 109.87(D)(1), the Plaintiff is seeking damages on behalf of Ohio consumers in the amount of five hundred dollars (\$500) per violation, or fifteen hundred dollars (\$1500) for any willful and knowing violation.

PLAINTIFF'S SECOND CAUSE OF ACTION:

VIOLATIONS OF THE CSPA AND TSSA
FAILURE TO COMPLY WITH OHIO TELEPHONE SOLICITOR LAW

25. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Nineteen (1-19) of the Complaint.
26. Defendants violated the CSPA, R.C. 1345.02(A) and the TSSA, R.C. 4719.02 (A) by acting as telephone solicitors in the State of Ohio without first having obtained certificates of registration.
27. Defendants violated the TSSA, R.C. 4719.04 (A) by acting as telephone solicitors without first having obtained, nor filed with the Ohio Attorney General, a surety bond issued by a surety company authorized to do business in the State of Ohio.
28. Defendants violated the CSPA, R.C. 1345.02(A) and the TSSA, R.C. 4719.07(C) by submitting charges to Ohio purchasers' bank or credit card accounts without having obtained from purchasers original copies of written confirmations signed by the purchasers which complied with TSSA, R.C. 4719.07(F) and (G) or without being

exempt from the requirements to obtain written confirmations pursuant to R.C. 4719.07(H).

29. Such acts or practices have been previously determined by an Ohio court to violate the CSPA, R.C. 1345.01 et seq. Defendants committed said violations after the decision was available for public inspection pursuant to R.C. 1345.05(A)(3).
30. Pursuant to R.C. 1345.07 and R.C. 4719.12, the Plaintiff is seeking civil penalties for violations of the CSPA and the TSSA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

1. ISSUE an order declaring that the Defendants' acts and practices, as described herein, violated the CSPA, R.C. 1345.01 et seq., the TSSA, R.C. 4719.01 et seq., and R.C. 109.87.
2. ISSUE a permanent injunction enjoining Defendants, their agents, servants, employees, successors or 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 the acts and practices which violate the CSPA, R.C. 1345.01 et seq., the TSSA, R.C. 4719.01 et seq., and R.C. 109.87.
3. AWARD Five Hundred Dollars (\$500) to each person in Ohio who received a telephone solicitation from the Defendants in violation of R.C. 109.87(B)(1) as described herein, pursuant to 47 U.S.C. 227(g)(1), or three times that amount if the court finds that Defendants' actions were committed willfully and knowingly. Plaintiff may recover these damages on behalf of Ohio consumers pursuant to R.C. 109.87(D)(1).
4. ASSESS, FINE and IMPOSE upon Defendants civil penalties as provided by R.C. 1345.07 for violations of the CSPA described herein.

5. ASSESS, FINE and IMPOSE upon Defendants civil penalties as provided by R.C. 4719.12 for violations of the TSSA as described herein.
6. GRANT Plaintiff its costs incurred in bringing this action.
7. GRANT such other relief as the court deems to be just, equitable and appropriate.
8. ORDER Defendants to pay all court costs associated with this matter.

Respectfully submitted,

MICHAEL DEWINE
Attorney General

/s/ Erin B. Leahy

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