

FILED

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CAROL A. MEAD
CLERK OF COURTS
COMMON PLEAS COURT
ASHTABULA CO. OH

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

STATE OF OHIO ex rel.
ATTORNEY GENERAL
MICHAEL DEWINE
615 W. Superior Street, 11th Floor
Cleveland, OH 44113

Plaintiff,

v.

ASHTABULA DRIVING SCHOOL ,
INC.
c/o OHIO SECRETARY OF STATE
JON HUSTED
180 East Broad Street
Columbus, OH 43215

and

FLOYD TACKETT
1725 Thayer Avenue
Ashtabula, OH 44004

Defendants.

) CASE NO.
)
) 2011 CV 1136
) JUDGE
) Judge Alfred W. Mackey

) COMPLAINT AND REQUEST FOR
) 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. Ashtabula Driving School, Inc. (hereinafter "ADS") is a corporation with a primary place of business located in Ashtabula County, Ohio and is involved in the business of providing in-classroom and on-the-road training for student drivers for consumers in Ashtabula County and other counties in the State of Ohio.
3. Floyd Tackett (hereinafter "Tackett") is an individual and, at all times relevant herein, was a principal in the business known as ADS and was responsible for the operation and management of said company.
4. The actions of Defendants, hereinafter described, have occurred in the State of Ohio, County of Ashtabula and other counties, and as set forth below, are in violation of R.C. 1345.01 et. seq., R.C. 1701.07 and O.A.C. 109:4-3-09(A)(2).
5. Defendants have solicited consumers to provide state-approved driving instruction and educational services to consumers in Ashtabula County and other areas throughout the State of Ohio.
6. Defendants have failed to comply with the provisions of R.C. 1701.07(A) by failing to maintain a statutory agent with the office of the Ohio Secretary of State.
7. Defendant Tackett possessed and exercised the authority to establish, implement and amend the procedures of ADS and allowed, directed, ratified or caused the unlawful acts or practices described herein by employees, agents or assigns of ADS.
8. Each Defendant is a "supplier", as that term is defined in R.C. 1345.01(C), as each was engaged in the business of effecting "consumer transactions" by soliciting consumers for the purchase of driving training and/or instruction for a fee, within the meaning of R.C. 1345.01(A).
9. Defendants have accepted monetary deposits from consumers for the purchase of driving training and/or instruction and have failed to deliver the product and/or services and have refused to refund deposits.

PLAINTIFF'S CAUSE OF ACTION
COUNT ONE
FAILURE TO DELIVER OR PROVIDE REFUNDS

10. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in Paragraphs One through Nine (1-9) of this Complaint.
11. Throughout the years of 2010 and 2011, Defendants accepted payments from consumers for the purchase of driving training and/or instruction. Said instruction is required of certain individuals who seek to become licensed drivers by the State of Ohio. This training and/or instruction required both classroom teaching as well as on-the-road training. Defendants did not provide the training and/or instruction that were paid for and Defendants have refused to refund any portion of the amount paid to them.
12. Defendants have committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) and Ohio Administrative Code 109:4-3-09(A)(2) (Failure to Deliver), by accepting monetary amounts from consumers for the purchase of driving training and/or instruction and failing to deliver services and refusing to refund amounts to consumers.
13. The acts and practices described in Paragraphs Eleven through Twelve (11-12) have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were made available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT TWO
FAILURE TO MAINTAIN STATUTORY AGENT
WITH THE SECRETARY OF STATE


14. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in Paragraphs One through Thirteen (1-13) of this Complaint.
15. Defendants have committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) and R.C. 1701.07 by failing to maintain a statutory agent with the Ohio Secretary of State.

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;
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 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 appropriate 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, however stored, 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 an award of his costs in bringing this action;
7. **ORDER** the Defendants to pay all court costs;

8. **GRANT** any other relief that this Court feels is appropriate and consistent with applicable legal and equitable principles.



THOMAS D. MC GUIRE 0007121

Senior Assistant Attorney General

Consumer Protection Section

615 West Superior Street, 11th Floor

Cleveland, Ohio 44114

(216) 787-3030

Thomas.Mcguire@ohioattorneygeneral.gov

Counsel for Plaintiff