STATE OF INDIANA)
) SS:
COUNTY OF PORTER)

IN THE PORTER CIRCUIT/SUPERIOR COURT

CAUSE NO. 64D01-0502-CT-1188

STATE OF INDIANA,)
)
Plaintiff,)
)
v.)
)
ANGEL HARRIS,)
)
Defendant.)

FILED
IN OPEN COURT
JAN 26 2005

File Stamp Pursuant To TRIAL RULE 5(F)

COMPLAINT FOR INJUNCTION, RESTITUTION, COSTS, AND CIVIL PENALTIES

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, petitions the Court pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1, *et seq.*, for injunctive relief, consumer restitution, civil penalties, costs, and other relief.

PARTIES

1. The Plaintiff, State of Indiana, is authorized to bring this action and to seek injunctive and other statutory relief pursuant to Ind. Code § 24-5-0.5-4(c).

2. At all times relevant to this Complaint, the Defendant, Angel Harris, was an individual engaged in the sale of items via the Internet, with a principal place of business in Porter County, located at 160 East 400 South, Valparaiso, Indiana, 46383.

FACTS

3. At least since March 5, 2004, the Defendant has offered items for sale via the Internet.

A. Allegations Related to Consumer Stephen Mattingly's Transaction.

4. On or about March 5, 2004, the Defendant entered into a contract via the Internet with Stephen Mattingly ("Mattingly") of Tallahassee, Florida, wherein the Defendant represented she would sell a couch to Mattingly for Three Hundred and Fifty-Three Dollars ($353.00), which Mattingly paid.

5. Pursuant to Ind. Code § 24-5-0.5-3(a)(10), the Defendant is presumed to have represented at the time of sale she would deliver the couch to Mattingly within a reasonable period of time.

6. The Defendant has yet to either provide a refund, or to ship the couch to Mattingly.

B. Allegations Related to Consumer William Heller's Transaction.

7. On or about March 6, 2004, the Defendant entered into a contract via the Internet with William Heller ("Heller") of Riverside, California, wherein the Defendant represented she would sell a 50-inch Sony Flat Screen Television to Heller for Seven Hundred and Sixty Dollars and Fifty Cents ($760.50), which Heller paid.

8. Pursuant to Ind. Code § 24-5-0.5-3(a)(10), the Defendant is presumed to have represented at the time of sale she would deliver the television to Heller within a reasonable period of time.

9. The Defendant has yet to either provide a refund, or to ship the television to Heller.

C. Allegations Related to Consumer Brett Keller's Transaction.

10. On or about March 7, 2004, the Defendant entered into a contract via the Internet with Brett Keller ("Keller") of Milwaukee, Wisconsin, wherein the Defendant represented she would sell a 50-inch Sony Plasma Television to Keller for One Thousand Two Hundred and Fifty Dollars and Fifty Cents ($1,250.50), which Keller paid.

11. Pursuant to Ind. Code § 24-5-0.5-3(a)(10), the Defendant is presumed to have represented at the time of sale she would ship the television to Keller within a reasonable period of time.

12. The Defendant has yet to either provide a refund, or to ship the television to Keller.

D. Allegations Related to Consumer Manuel Lozano's Transaction.

13. On or about March 15, 2004, the Defendant entered into a contract via the Internet with Manuel Lozano ("Lozano") of Hillsborough, Florida, wherein the Defendant represented she would sell a 50-inch Sony Flat Screen Television to Lozano for Nine Hundred and Sixty Dollars ($960.00), which Lozano paid.

14. Pursuant to Ind. Code § 24-5-0.5-3(a)(10), the Defendant is presumed to have represented at the time of sale she would ship the television to Lozano within a reasonable period of time.

15. The Defendant has yet to provide either a refund, or to ship the television to Lozano.

COUNT I-VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

16. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 15 above.

17. The transactions referred to in paragraphs 4, 7, 10 and 13, are "consumer transactions" as defined by Ind. Code § 24-5-0.5-2(a)(1).

18. The Defendant is a "supplier" as defined by Ind. Code § 24-5-0.5-2(a)(3).

19. The Defendant's representations to the consumers that the consumers would be able to purchase the items as represented, when the Defendant knew or reasonably should have known the consumers would receive no such benefit, as referenced in paragraphs 4, 7, 10 and 13, are violations of the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(1).

20. The Defendant's representations to consumers that the Defendant would deliver the items, or otherwise complete the subject matter of the consumer transaction within a reasonable period of time, when the Defendant knew or reasonably should have known she would not, as referenced in paragraphs 5, 8, 11 and 14, are violations of the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(10).

21. The Defendant's representations to the consumers that they would be able to purchase the items as advertised by the Defendant, when the Defendant did not intend to sell the items as represented, as referenced in paragraphs 4, 7, 10 and 13, are violations of the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(11).

COUNT II- KNOWING AND INTENTIONAL VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

22. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 21 above.

23. The misrepresentations and deceptive acts set forth in paragraphs 4, 5, 7, 8, 10, 11, 13 and 14 were committed by the Defendant with knowledge and intent to deceive.

RELIEF

WHEREFORE, the Plaintiff, State of Indiana, requests the Court enter judgment against the Defendant, Angel Harris, for a permanent injunction pursuant to Ind. Code § 24-5-0.5-4(c)(1), enjoining the Defendant from the following:

a. representing expressly or by implication the subject of a consumer transaction has sponsorship, approval, characteristics, accessories, uses, or benefits it does not have which the Defendant knows or reasonably should know it does not have;

b. representing expressly or by implication the Defendant is able to deliver or complete the subject of a consumer transaction within a reasonable period of time, when the Defendant knows or reasonably should know she can not; and

c. representing expressly or by implication a consumer will be able to purchase the subject of a consumer transaction as advertised by the Defendant, if the Defendant does not intend to sell it.

AND WHEREFORE, the Plaintiff, State of Indiana, further requests the Court enter judgment against the Defendant for the following relief:

a. cancellation of the Defendant's unlawful contract with consumers, including but not limited to, all persons referenced in paragraphs 4, 7, 10 and 13, pursuant to Ind. Code § 24-5-0.5-4(d);

b. consumer restitution pursuant to Ind. Code § 24-5-0.5-4(c)(2), for reimbursement of all unlawfully obtained funds remitted by consumers, including but not limited to, all persons referenced in paragraphs 4, 7, 10 and 13, for the purchase of the Defendant's items via the Internet, in an amount to be determined at trial;

c. costs pursuant to Ind. Code § 24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;

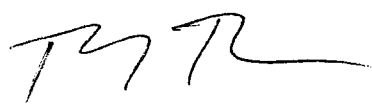
d. on Count II of the Plaintiff's complaint, civil penalties pursuant to Ind. Code § 24-5-0.5-4(g) for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars ($500.00) per violation, payable to the State of Indiana;

e. on Count II of the Plaintiff's complaint, civil penalties pursuant to Ind. Code § 24-5-0.5-8 for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars ($500.00) per violation, payable to the State of Indiana; and

f. all other just and proper relief.

Respectfully submitted,

STEVE CARTER
Indiana Attorney General
Atty. No. 4150-64

By: 

Terry Tolliver
Deputy Attorney General
Atty. No. 22556-49

Office of Attorney General
Indiana Government Center South
302 W. Washington, 5th Floor
Indianapolis, IN 46204
Telephone: (317) 233-3300