

STATE OF MAINE
KENNEBEC, SS

SUPERIOR COURT
CIVIL ACTION

DOCKET NO. AUGSC-CV-2010- 222

STATE OF MAINE,

Plaintiff

v.

C & E JENSEN ASSOCIATES
LLC, d/b/a SANDALS4LESS.COM)
LLC,)

Defendants)

CONSENT DECREE

(Maine Unfair Trade Practices Act, 5 M.R.S.A. §207)

Plaintiff, State of Maine, filed its Unfair Trade Practice Complaint in the above-captioned matter on 9/25/ 2010. Pursuant to 5 M.R.S.A. §209, the Defendant has agreed to the entry of this Consent Decree without trial or adjudication of issue or fact or law herein. This Consent Decree does not constitute evidence against the Defendant or an admission by the Defendant of any of the allegations in the Plaintiff's Complaint.

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any fact or law herein, and upon the consent of the parties hereto, it is hereby ORDERED as follows:

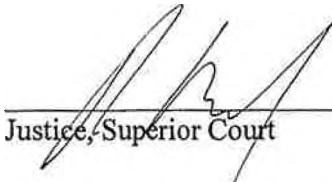
1. This Court has jurisdiction over the subject matter of this action and over the parties consenting to this Decree. The Complaint states claims which can be granted against the Defendant, pursuant to the Maine Unfair Trade Practices Act (UTPA), 5 M.R.S.A. §§205A-214.
2. The Defendant, its agents, employees, assigns and any other persons acting in concert or participation with the Defendant in the sale of goods are enjoined from the following unfair or deceptive conduct:

- A. Accepting money from purchasers of goods and then failing to provide a timely refund when the goods are not delivered; and
 - B. Violating the Federal Trade Commission's Mail or Telephone Order Merchandise Rule (16 C.F.R. §435), which requires that sellers have a reasonable basis to expect to be able to deliver mail-order merchandise within the time specified in their advertising or within 30 days if no time is specified and, if this deadline cannot be met, giving the consumer the option of canceling the order and receiving a full refund or consenting to a delay.
3. The Defendant represents, to the best of its knowledge, that as of the date of its signature below, it or its supplier has refunded all money received from, or otherwise made full restitution to consumers who have paid money to the Defendant and who have not received their ordered goods.
4. The Defendant represents, to the best of its knowledge, that as of the date of its signature below, there are no consumers in the years 2009 and 2010 who have not yet received their ordered products and who are currently demanding refunds from the Defendant.
5. Further, if the State receives unresolved complaints from injured consumers requesting restitution, the State may present these complaints to the Defendant for payment. Unless the Defendant disputes a consumer's claim, the Defendant must pay restitution within 30 days of the date the Defendant receives the Consumer complaint. If the Defendant does not pay and instead disputes a consumer complaint, it must notify the Attorney General within 7 days of receiving it so that the Attorney General may investigate the matter and decide whether the Defendant is in violation of this Consent Decree.


6. Pursuant to 5 M.R.S.A. §209 of the Maine Unfair Trade Practices Act, the Defendant must pay within 30 days of this Order a civil penalty of \$750.0. This civil penalty shall be paid by certified bank check or money order payable to the Office of the Maine Attorney General.
7. If the Defendant fails to pay the amount listed above in paragraph 6, the Defendant shall be prohibited from conducting any new sales until the amounts listed above in paragraph 6 has been paid in full. This cease business injunctive relief shall take effect immediately upon the State's written notice to this Court of such a violation, with an accompanying written notice to the Defendant.
8. The Defendant shall post on its website a link to this Consent Decree with this title:
"Sandals4Less and the Maine Attorney General have entered into a voluntary Consent Decree concerning customer refunds." Defendant may remove the website link to this Consent Decree when \$750 has been paid in full.
9. Any violation by the Defendant of the mandatory injunctions listed above in paragraphs 2 through 6 will be subject to the civil penalty authorized in 5 M.R.S.A. §209 for violation of this Consent Decree.
10. The undersigned, with the knowledge of the terms of the above Consent Decree agree to these terms and to the entry of this Consent Decree.
11. Each and every violation of this Consent Decree shall be treated as a separate contempt hereof.
12. Jurisdiction is retained by this Court for the purpose of enabling any party of this Consent Decree to apply to this Court at any time for such further orders as may be necessary for the modification of any of the provisions of this Decree.

Dated:

12/1/10

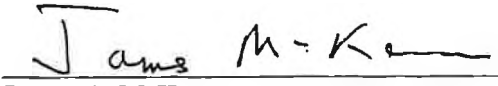

Justice, Superior Court

Dated: AUG 31 2010


C&E Jensen Associates LLC d/b/a Sandals4Less.com
By Peter J. Jensen, its Manager
12 Beech Road
Standish, ME 04084

Dated:

9/22/10


James A. McKenna
Assistant Attorney General
State House Station 6
Augusta, Maine 04333-0006
Maine Bar No. 1735
(207) 626-8842
Email: jim.mckenna@maine.gov

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KENNEBEC, SS

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STATE OF MAINE,)

Plaintiff)

v.)

C & E JENSEN ASSOCIATES,)
LLC, d/b/a SANDALS4LESS.COM,)
LLC,)

Defendants)

COMPLAINT FOR
INJUNCTIVE AND OTHER RELIEF
(Maine Unfair Trade Practices Act,
5 M.R.S.A. §207)

INTRODUCTION

This is an action brought pursuant to the Maine Unfair Trade Practices Act, 5 M.R.S.A. §§205-214, seeking to enjoin Defendants SANDALS4LESS.COM, LLC from failing to return to purchasers payments for shoes that the Defendant failed to provide.

PARTIES

1. Plaintiff State of Maine ["State"], a sovereign, by and through the Attorney General, commences this action under 5 M.R.S.A. §§ 205-A to 214,
2. C & E Jensen Associates, LLC is a Maine corporation which does business as sandals4less.com, LLC ["sandals4less.com"]. It sells footwear over the internet and from a retail location at 12 Beech Road, Standish, Maine 04084-5202.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this action pursuant to 4 M.R.S.A. §105 and 5 M.R.S.A. §209.
4. Venue was properly laid in this County pursuant to 5 M.R.S.A. §209.

RECEIVED AND FILED
2010 SEP 24 A 8:56
CLERK OF SUPERIOR COURT
JUDITH L. LUNNEY
CLERK OF COURT

STATUTORY BACKGROUND

5. Pursuant to 5 M.R.S.A. §207, “Unfair and deceptive acts or practices in the conduct of any trade or commerce are...unlawful.”

6. Pursuant to 5 M.R.S.A. §209:

Whenever the Attorney General has reason to believe that any person is using or is about to use any method, act or practice declared by §207 to be unlawful, and that proceedings would be in the public interest, he may bring an action in the name of the State against such person to restrain by temporary or permanent injunction the use of such method, act or practice and the Court may make such orders or judgments as may be necessary to restore to any person who has suffered any ascertainable loss by reason of the use or employment of such unlawful method, act or practice, any monies or property, real or personal, which may have been acquired by means of such method, act or practice....

7. The Federal Trade Commission’s Mail or Telephone Order Merchandise Rule (16 C.F.R. §435), requires that sellers have a reasonable basis to expect to be able to deliver mail-order merchandise within the time specified in their advertising or within 30 days if no time is specified and, if this deadline cannot be met, give the consumer the option of canceling the order and receiving a full refund or consenting to a delay.

FACTS

8. Defendant Sandals 4 Less is a footwear retailer which sells its products over the internet.

9. It maintains an internet website: sandals4less.com.

10. Consumers order shoes from the Defendant over the internet and pay by credit card.

11. The Defendant charges the credit card for the full price of the shoes before delivery is actually made.

12. When the Defendant is unable to deliver the ordered shoes, the Defendant fails to give the consumer purchaser the option of cancelling the order and receiving a full refund or consenting to a delay.

COUNT ONE

(Unfair and Deceptive Failure to Provide Refunds for Undelivered Shoes)

13. The State repeats, realleges and incorporates herein by reference paragraphs 1 through 12 of this Complaint.

14. Since August, 2009 the Defendant has in at least 7 cases accepted internet orders for footwear and collected payment for these orders.

15. When the order was not able to be fulfilled, the Defendant failed to send a refund to the Consumer Purchaser.

16. The Defendant's acceptance of payment for footwear and then its refusal to provide refunds when it was unable to deliver the order is unfair and deceptive and in violation of the Maine Unfair Trade Practices Act., 5 M.R.S.A. §207.

17. The Defendant's conduct as described in this Count is intentional.

COUNT TWO

(Violation of FTC Mail or Telephone Order Merchandise)

18. The State repeats, realleges and incorporates herein by reference paragraphs 1 through 17 of this Complaint.

19. The Defendant has repeatedly violated the Federal Trade Commission's Mail or Telephone Order Merchandise Rule (16 CFR §435), which requires that when the Defendant is unable to deliver the internet ordered merchandise to give the consumer the option of canceling the order and receiving a full refund or consenting to a delay.

20. The Defendant's violation of the FTC's Mail or Telephone Order Merchandise Rule is unfair and deceptive and in violation of the Maine Unfair Trade Practices Act, 5 M.R.S.A. §207.

21. The Defendant's conduct as described in this Count is intentional.

RELIEF REQUESTED

WHEREFORE, The State respectfully requests that this Court:

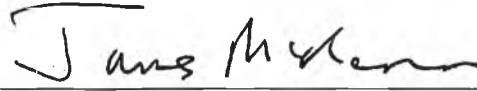
1. Declare that the unfair and deceptive practices described in this Complaint are in violation of the Maine Unfair Trade Practices Act.
2. Issue a permanent injunction restraining the Defendant from the following practice:

Accepting money for products and then failing to provide a
refund when the product is not available.
3. Order the Defendant to provide the Court with an accounting of the number and identity of purchasers (name, address, email, phone) from 2009 until the present who were charged for footwear that was never delivered and who did not receive a refund from the Defendant.
4. Order Defendant to pay restitution to consumers identified pursuant to paragraph 3.
5. Pursuant to 5 M.R.S.A. § 209, order Defendant to pay a civil penalty of up to \$10,000 for each intentional violation of 5 M.R.S.A. §207.
6. Pursuant to 5 M.R.S.A. § 209, order the Defendant to pay the State its costs of investigation and suit, including its attorneys' fees.
7. Grant such other and further relief as the Court deems just and proper.

Dated at Augusta, Maine this 23rd day of September, 2010.

Respectfully submitted,

JANET T. MILLS
Attorney General

A handwritten signature in black ink, appearing to read "James McKenna", written over a horizontal line.

James A. McKenna
Assistant Attorney General
State House Station 6
Augusta, Maine 04333-0006
Maine Bar No. 1735
(207) 626-8842
Email: jim.mckenna@maine.gov