


DISTRICT COURT, BOULDER COUNTY, COLORADO Boulder County Justice Center 1777 Sixth Street. Boulder CO 80302	SO ORDERED BY COURT 05/11/2021 DATE FILED: May 11, 2021 8:35 AM CASE NUMBER: 2019CV31156
STATE OF COLORADO, ex rel. PHILIP J. WEISER, ATTORNEY GENERAL Plaintiff, v. ATLANTIC PUBLISHERS GROUP, LLC; PUBLISHERS PARTNERSHIP SERVICES, LLC; CUSTOMER PUBLICATION SERVICES, LLC; ENDEAVOR DAILY, LLC; DENNIS SIMPSON CONSULTING; REALITY KATS, LLC; LORI BOWMAN, an individual; JOHN ACKERMANN, an individual; and DENNIS SIMPSON, an individual Defendants.	 ANDREW HARTMAN District Court Judge ▲ COURT USE ONLY ▲
	Case No. 2019-CV-031156 Div.: 2
FINAL CONSENT JUDGMENT-ACKERMANN DEFENDANTS	

This matter is before the Court on the Stipulation for Entry of a Final Consent Judgment under C.R.C.P. 58(a), subject to the provisions of C.R.C.P. 54(b), by Plaintiff, State of Colorado, ex rel. Philip J. Weiser, Attorney General for the State of Colorado (the “Colorado Attorney General” or the “State”) and Defendants John Ackermann and Endeavor Daily LLC (collectively, the “Ackermann Defendants”). All parties are hereafter referred to collectively as “the Parties.”

The Court, fully advised in this matter, FINDS, CONCLUDES, AND ORDERS:

- 1) that it has jurisdiction over the Parties and the subject matter of this suit under the grounds alleged in the Complaint by the State; and
- 2) that venue in Boulder County is proper; and
- 3) that the Parties shall be subject to the following provisions:

I. GENERAL PROVISIONS

1.1 Scope of Final Consent Judgment. The provisions of this Final Consent Judgment are entered pursuant to the Colorado Consumer Protection Act, §§ 6-1-101, et seq. C.R.S. (“CCPA”). This Final Consent Judgment shall apply to Individual Defendant John Ackermann and business entity Defendant Endeavor Daily, LLC (collectively, the “ACKERMANN DEFENDANTS”).

1.2 Release of Claims. The STATE acknowledges by its execution hereof that this Final Consent Judgment constitutes a complete settlement and release of all claims under the CCPA and COCCA on behalf of the STATE against the ACKERMANN DEFENDANTS, their owners, employees and former employees, with respect to all claims, causes of action, damages, fines, costs, and penalties which were asserted or could have been asserted under the CCPA and COCCA in the Complaint, that arose prior to this date and relating to or based upon the acts or practices which are the subject of the Complaint filed in this action. The STATE agrees that it shall not proceed with or institute any civil action or proceeding under the CCPA or COCCA against the ACKERMANN DEFENDANTS, including, but not

limited to, an action or proceeding seeking restitution, injunctive relief, fines, penalties, attorneys' fees, or costs, for any conduct or practice prior to the date of entry of this Final Consent Judgment which relates to the subject matter of the Complaint filed in this action.

1.3 Liability. All parties are entering into this Final Consent Judgment for the purpose of compromising and resolving all of the disputed claims and to avoid the expense of further litigation and without a finding or admission of liability or fault of any kind. The ACKERMANN DEFENDANTS deny any fault or liability of any kind, deny all the allegations in the litigation, and deny they have caused any harm of any nature.

1.4 Preservation of Law Enforcement Action. Nothing herein precludes the STATE from enforcing the provisions of this Final Consent Judgment, or from pursuing any law enforcement action under the CCPA with respect to the acts or practices of the ACKERMANN DEFENDANTS not covered by this lawsuit and Final Consent Judgment or any acts or practices of the ACKERMANN DEFENDANTS conducted after the entry of this Final Consent Judgment.

1.5 Compliance with and Application of State Law. Nothing herein relieves the ACKERMANN DEFENDANTS of their duty to comply with applicable laws of the State of Colorado nor constitutes authorization by the STATE for the ACKERMANN DEFENDANTS to engage in acts and practices prohibited by such laws. This Final Consent Judgment shall be governed by the laws of the State of Colorado.

1.6 Non-Approval of Conduct. Nothing herein constitutes approval by the STATE of the ACKERMANN DEFENDANTS' past or future business practices. The ACKERMANN DEFENDANTS shall not make any representation contrary to this paragraph.

1.7 Third Party Claims. Nothing herein shall be construed as a waiver of any rights of third parties, including the rights of consumers to seek restitution or other remedies through other actions.

1.8 Use of Settlement as Defense. Nothing herein shall be interpreted to prevent the STATE from taking enforcement action to address conduct occurring after the entry of this Final Consent Judgment that the STATE believes to be in violation of the law. The fact that such conduct was not expressly prohibited by the terms of this Final Consent Judgment shall not be a defense to any such enforcement action.

1.9 Use of Settlement in Business Activity. Under no circumstances shall this Final Consent Judgment, the name of the Attorney General, or the names of any of the STATE's employees or representatives be used by the ACKERMANN DEFENDANTS or any of their employees, representatives, or agents as an endorsement of any conduct, past or present, by the ACKERMANN DEFENDANTS.

1.10 Retention of Jurisdiction. This Court shall retain jurisdiction over this matter for the purpose of enabling any party to this Final Consent Judgment to apply to the Court at any time for any further orders which may be necessary or appropriate for the construction, modification or execution of this Final Consent

Judgment, and for the enforcement of compliance herewith and the punishment of violations hereof.

1.11 Contempt. The parties understand and agree that a finding of any violation of any term or provision of this Final Consent Judgment may give rise to all contempt remedies available to the Court, including those provided under C.R.S § 6-1-112(1)(b).

1.12 Execution in Counterparts. This Final Consent Judgment may be executed in counterparts.

1.13 Severability. If any provision(s) of this Final Consent Judgment is held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

1.14 Successors in Interest. The terms and provisions of this Final Consent Judgment may be enforced by the current Colorado Attorney General, and by any of the Attorney General's authorized agents or representatives, as well as by any of the Attorney General's successors in interest, agents or representatives.

1.15 Amendment. This Final Consent Judgment may be amended solely by written agreement signed by the STATE and the ACKERMANN DEFENDANTS.

1.16 Notice. Whenever the ACKERMANN DEFENDANTS shall provide notice or any other documents to the Colorado Attorney General under this Consent Judgment, that requirement shall be satisfied by sending notice to:

Jeffrey M. Leake
Senior Assistant Attorney General

Consumer Fraud Unit
Colorado Department of Law
1300 Broadway, 7th Floor
Denver, CO 80203
jeffrey.leake@coag.gov

Any notice or other documents sent to the ACKERMANN DEFENDANTS by the Colorado Attorney General under this Consent Judgment shall be sent to:

Heather R. Hanneman, Esq.
Recht Kornfeld, P.C.
1600 Stout Street, Suite 1400
Denver, Colorado 80202
heather@rklawpc.com

1.17 Definitions. Unless otherwise stated herein, all terms herein that are defined in the CCPA shall be given the definition provided by the CCPA.

II. PERMANENT INJUNCTION

2.1 Effective immediately, this Court PERMANENTLY ENJOINS THE ACKERMANN DEFENDANTS and any other person under their control or at their direction who receives actual notice of this Order from

- (a) Engaging in the magazine or newspaper subscription business in the State of Colorado.
- (b) Engaging in the magazine or newspaper subscription business in the State of Colorado while using an out-of-state mailing address.
- (c) Soliciting consumers in the State of Colorado to purchase magazine or newspaper subscriptions.
- (d) Acting as a consultant, or providing consumer data, to Colorado individuals or Colorado companies that are engaged in the magazine or newspaper subscription business.
- (e) Processing orders for magazine or newspaper subscriptions for Colorado consumers, including working with magazine clearinghouses or newspapers

to process Colorado consumer orders for magazine or newspaper subscriptions.

(f) Acting as a clearinghouse for magazine or newspaper subscriptions for Colorado consumers.

(g) Disclosing, using, providing, selling, sharing, permitting the use of, or benefitting from, the use of data or information related to any Colorado consumer, including but not limited to, name, address, age, phone number, email address, social security number, other identifying information, and prior magazine and newspaper subscription history.

(h) Conspiring with any individual or entity to violate this order.

Additionally, the ACKERMANN DEFENDANTS and their officers, directors, agents, servants, employees, independent contractors, and any other persons, in active concert or participation with them, who receive actual notice of the Court's order are enjoined from

(h) Receiving, handling, depositing, or maintaining funds received or derived from Colorado consumers for magazine or newspaper subscriptions. The ACKERMANN DEFENDANTS shall return any Colorado consumer funds received after the effective date of the Permanent Injunction to the consumer within 7 business days of receiving funds from the consumer and shall document all such refunds with the consumer's name, address, phone number, if listed, on the consumer's payment, and amount of refund. Defendants shall forward to the Attorney General all documentation regarding refunds within 7 business days of mailing the refund to the consumer.

III. MONETARY PROVISIONS

3.1 The ACKERMANN DEFENDANTS shall make a total monetary payment in the amount of \$387,500.00, within 14 days of the Court's order approving the Final Consent Judgment. THE ACKERMANN DEFENDANTS shall send payment by check, made payable to the Colorado Department of Law with a reference to "Atlantic Publishers Group, LLC et.al." The payment shall be mailed via overnight mail. The mailer containing the payment shall be addressed to:

Mica Moore, Program Assistant
Consumer Fraud Unit
Colorado Department of Law
1300 Broadway, 7th Floor
Denver, Colorado 80203

3.2 The above-described payment by THE ACKERMANN DEFENDANTS to the Colorado Department of Law is to be held, along with any interest thereon, in trust by the Attorney General to be used in the Attorney General's sole discretion for reimbursement of the State's actual costs and attorneys' fees, the payment of restitution, if any, and for future consumer fraud or antitrust enforcement, consumer education, or public welfare purposes.

3.3 If the ACKERMANN DEFENDANTS fail to make the payment described in provision 3.1 when due, the Colorado Attorney General shall be entitled to immediate entry of judgment against the ACKERMANN DEFENDANTS in the amount of \$2,000,000.00.

IV. REPRESENTATIONS AND WARRANTIES

4.1 Except as expressly provided in this Final Consent Judgment, nothing in this Final Consent Judgment shall be construed as relieving the ACKERMANN DEFENDANTS of their respective obligations to comply with all state and federal laws, regulations or rules, or granting permission to engage in any acts or practices prohibited by such law, regulation or rule.

4.2 The ACKERMANN DEFENDANTS acknowledge that they have thoroughly reviewed this Final Consent Judgment, that they understand and agree to its terms, and that they agree that it shall be entered as an Order of this Court.

V. ENFORCEMENT OF FINAL CONSENT JUDGMENT

5.1 In any action brought by the STATE to enforce this Final Consent Judgment, the ACKERMANN DEFENDANTS consent to personal and subject matter jurisdiction in the Boulder County District Court. The ACKERMANN DEFENDANTS further consent to domestication of any judgment related to violations of this Consent Judgment in any state court within the United States. This Consent Judgment is governed by the laws of the State of Colorado.

SO ORDERED and SIGNED this _____ day of _____, 2021.

BY THE COURT:

Andrew Hartman
District Court Judge

ORIGINAL SIGNATURE PAGES OF THE PARTIES ARE ATTACHED AS
“ATTACHMENT A”

The undersigned parties enter into this Final Consent Judgment in this matter, *State of Colorado, ex re. Philip J. Weiser, Attorney General v. Atlantic Publishers Group, LLC* et al.

On behalf of the Attorney General,

PHILIP J. WEISER
Attorney General

_____ (Date)_____

JEFFREY M. LEAKE, 38338*
Senior Assistant Attorney General
NATALIE R. KLEE, 51223*
Assistant Attorney General
Consumer Protection Section
Attorneys for Plaintiff

On behalf of the Ackermann Defendants,

(Signature)_____

(Date)_____

John Ackermann, Individual Defendant

(Signature)_____

(Date)_____

John Ackermann, on behalf of Endeavor Daily, LLC