

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA *ex rel.*
THOMAS J. MILLER,
ATTORNEY GENERAL OF IOWA,

Plaintiff,

v.

CONVERT2MEDIA, LLC,

Defendant.

EQUITY No. EQCE082962

CONSENT JUDGMENT

The Court, having been presented by Assistant Attorney General Amy Licht with this Consent Judgment, finds and orders as follows:

1. This Consent Judgment, which has been approved by Defendant and its attorney, is intended to resolve this litigation pursuant to Iowa Code § 714.16, the Iowa Consumer Fraud Act (CFA), and Iowa Code § 714.16A, the Older Iowans Act (OIA). For purposes of entry of this Consent Judgment, the above-captioned Defendant agrees that any and all service or notice requirements relating to this Consent Judgment may be fully met through Plaintiff’s prompt emailing of a file-stamped copy of this document to Defendant’s counsel.
2. The Court has jurisdiction of the parties and subject matter.
3. Defendant denies that it, or (as applicable) its agents, owners, officers, directors, or employees are legally responsible for any conduct in violation of the CFA or OIA, and this Consent Judgment is not an admission of liability by Defendant or by such other individuals or entities.
4. The Court finds that this Consent Judgment should be entered.

IT IS THEREFORE ORDERED, pursuant to Iowa R. Civ. P. 1.1501 *et seq.*, the CFA and the OIA, that Defendant, and its directors, officers, principals, partners, and employees, and all other persons, corporations and other entities acting in concert or participating with Defendant who have actual or constructive notice of the Court's injunction, are permanently restrained and enjoined from violating the CFA, and, without limiting the foregoing, in connection with direct and indirect participation in any advertising¹ that is not known to avoid sales to Iowa residents:

(A) Defendant shall retain for at least three years a copy of each offer (including modified versions of a previous offer) in the format received from each advertiser (including a website screen shot) that is extended or made available to affiliates or prospective affiliates on Defendant's affiliate network. "Offer" for this purpose refers to any opportunity Defendant presents to affiliates or would-be affiliates to receive payment or anything of value for participating in efforts to promote sales online.

(B) Defendant shall obtain from each affiliate marketer the name of the individual(s) the affiliate marketer identifies as the person with primary control over that affiliate marketer as well as any contact person (if different from the controlling individual(s)), and a reliable email address and mailing address for such controlling individual(s) and contact person, and Defendant shall retain such information for a period of at least three years.

(C) Defendant shall, pursuant to an effort to effect reasonable monitoring of affiliate advertising, designate an individual or department that will regularly monitor a random sample of advertising content disseminated by affiliates pursuant to an arrangement with, or in coordination

¹ "Advertisement" (and variations such as "advertise") as used herein has the meaning found at Iowa Code § 714.16(1)(a).

with, Defendant. To the extent Defendant becomes aware of affiliate conduct that involves unsubstantiated claims, misrepresentations to consumers or the impersonation of an online media site/news article, Defendant shall immediately cease all participation, direct or indirect, in such conduct, and shall take reasonable steps to ensure that the individuals and entities responsible for such conduct are no longer able to act as Defendant's affiliates.

(D) Defendant shall advise affiliates that unsubstantiated product claims, misrepresentations to consumers and the impersonation of online media sites/news articles is improper and will result in termination from Defendant's affiliate network.

(E) Defendant shall not advise affiliates to use or knowingly participate in the use of any advertising content that differs from the advertising content upon which any provider of a merchant account or comparable services based its decision to provide (or continue to make available) such account or services.

(F) Defendant shall not advise affiliates to engage in unlawful conduct.

IT IS FURTHER ORDERED that Defendant pay within ten (10) days of entry of this Consent Judgment, the aggregate total of \$100,000.00 to the Attorney General, to be deposited into the investigation and litigation fund created by Iowa Code § 714.16A.

IT IS FURTHER ORDERED that nothing herein diminishes the requirements, duties, obligations, or powers set forth in the Consumer Fraud Act.

IT IS FURTHER ORDERED that the Attorney General's execution of this Consent Judgment and its subsequent entry by the Court constitutes a release of Defendant from any and all liability for conduct that (i) occurred prior to entry of this Consent Judgment; and (ii)

would violate one or more injunctive provisions herein if such conduct had occurred after entry of the Consent Judgment.

IT IS FURTHER ORDERED that the Court retain jurisdiction to enforce this Consent Judgment.

IT IS FURTHER ORDERED that the Defendant pay court costs, if any.

SO ORDERED.

Approved:

Date: 3/20/18

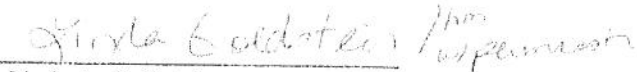


Convert2Media, LLC

Mike Kerry

By (print name):

Date: 3/22/18



Linda A. Goldstein
Counsel for Defendant

Date: 4/16/18



Steve St. Clair
Assistant Attorney General



State of Iowa Courts

Case Number
EQCE082962

Case Title
STATE OF IOWA EX REL THOMAS J MILLER VS
CONVERT2MEDIA LLC
OTHER ORDER

Type:

So Ordered

A handwritten signature in black ink, appearing to read 'Paul D. Scott', written over a horizontal line.

Paul D. Scott, District Court Judge,
Fifth Judicial District of Iowa

Electronically signed on 2018-04-17 11:34:01