

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO, ex rel.)
RICHARD CORDRAY)
ATTORNEY GENERAL OF OHIO)
30 EAST BROAD ST.)
STATE OFFICE TOWER, 14TH FL.)
COLUMBUS, OHIO 43215)

PLAINTIFF,)

v.)

LATIN EXPLOSION)
1683 QUARRY TRACE)
COLUMBUS, OHIO 43204)

and)

EL PALENQUE PARTY HOUSE)
1683 QUARRY TRACE)
COLUMBUS, OHIO 43204)

and)

MANUEL TORRES)
1683 QUARRY TRACE)
COLUMBUS, OHIO 43204)

DEFENDANTS.)

CASE NO. 09 CVH 12 18753

JUDGE

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
2009 DEC 18 AM 9:14
CLERK OF COURTS

COMPLAINT FOR
DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF, RESTITUTION,
CIVIL PENALTIES AND OTHER
APPROPRIATE RELIEF

JURISDICTION

1. Richard Cordray, Attorney General of Ohio, 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. 1345.01 et seq. (the Ohio Consumer Sales Practices Act).

2. The actions of Defendants, hereinafter described, have occurred in the State of Ohio and Franklin County, as set forth below, are in violation of the Consumer Sales Practices Act, R.C. 1345.01 et seq.
3. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.
4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3), in that some of the transactions complained of herein, and out of which this action arose, occurred in Franklin County.

DEFENDANTS

5. Defendant Latin Explosion is an Ohio fictitious business with its principal place of business formerly located at 701 Georgesville Rd., Columbus Ohio 43228.
6. Defendant El Palenque Party House (El Palenque) is an Ohio fictitious business with its principal place of business formerly located at 701 Georgesville Rd., Columbus Ohio 43228.
7. Defendant Manuel Torres (Torres) is the owner of Latin Explosion and El Palenque Party House. On information and belief, Defendant Torres dominated, controlled and directed the business activities and sales conduct of Defendants Latin Explosion and El Palenque Party House causing, personally participating in, or ratifying the acts and practices of Defendants Latin Explosion and El Palenque Party House as described in the Complaint.
8. Defendants, as described below, are "suppliers" as that term is defined in R.C. 1345.01(C) as Defendants were, at all times relevant herein, engaged in the business of effecting consumer transactions by soliciting, offering and selling Los

Temerarios concert tickets to individual consumers in the State of Ohio, including Franklin County, for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).

STATEMENT OF FACTS

9. Defendants promoted a concert by advertising the concert on radio station 103.1 FM "La X", and by placing posters and banners at various locations around Columbus, that Latin band Los Temerarios would play a concert at El Palenque on November 8, 2009, when Defendants knew that the concert would not take place.
10. Defendants had tickets printed for the concert an example of which is attached to the Complaint marked as Exhibit A.
11. Defendants also solicited Columbus area Hispanic convenience stores as distribution points for the sale of tickets for a concert Defendants knew would not take place.
12. Consumers were also able to purchase tickets at the door of El Palenque at inflated prices on the evening of the concert.
13. Consumers, believing the Defendants representations, purchased Los Temerarios concert tickets in advance of the concert for Thirty-Five dollars (\$35.00) to Forty dollars (\$40.00) per ticket and/or paid up to Eighty dollars (\$80.00) per ticket at the door on the evening of the concert and/or purchased VIP tickets at One Hundred dollars (\$100.00) per ticket.

14. On information and belief, Defendants sold between Seven-Hundred Fifty (750) to One Thousand (1000) tickets for the Los Temerarios concert Defendants knew would not take place.
15. On information and belief, on November 8, 2009 between Seven Hundred Fifty (750) to One Thousand (1000) consumers went to El Palenque for the Los Temerarios concert the Defendants advertised would begin at 8:00 pm.
16. Knowing that there would be no concert the Defendants continued to represent, claim, and promise the audience that the band Los Temerarios would play a concert at El Palenque that evening.
17. Based upon the representations made by the Defendants, consumers waited for several hours for the concert to begin.
18. After it became apparent that there would be no concert, and the promotion was a scam, some members of the audience became angry and unruly.
19. Rather than refund consumers the purchase price of their tickets and admit to the audience no concert was scheduled, Defendants called the police to come to El Palenque to control the angry, unruly members of the audience.
20. The band Los Temerarios did not negotiate nor enter into any discussions with any of the Defendants for their appearance and performance on November 8, 2009 at El Palenque as evidenced by the Lopez letter attached as Exhibit B.
21. On November 3, 2009, Los Temerarios' Booking Agency, William Morris Endeavor Entertainment, sent an email to Gil Garcia of radio station 103.1 FM "La X", informing him that there was no show scheduled on November 8, 2009 at

El Palenque and to cease all advertising immediately as evidenced by the Lopez letter attached as Exhibit B.

22. On information and belief, Defendants received all of the money from the sale of the Los Temerarios tickets for a concert Defendants never scheduled.
23. None of the consumers who purchased concert tickets from the Defendants received refunds.
24. Defendants advertised, promoted and represented to consumers that the subject of a consumer transaction was available to the consumer for a reason that did not exist.
25. Defendants knew of the inability of the consumers to receive a substantial benefit from the subject of the consumer transaction when they advertised, promoted, printed and sold the concert tickets for a concert that they knew would not take place.
26. Defendants required consumers to enter into consumer transactions on terms the Defendants knew were substantially one-sided in favor of the Defendants when Defendants advertised, promoted, printed and sold concert tickets for a concert the Defendants knew would not take place.
27. Defendants accepted substantial payments from consumers for the purchase of concert tickets, failed to deliver the concert, and failed to refund to consumers the purchase price of the concert tickets.
28. Defendants represented that the band Los Temerarios would perform a concert at El Palenque when such was not the fact.

29. Defendants accepted money from consumers in connection with the purchase of concert tickets, but did not include any information on the ticket notifying consumers whether the purchase price of the ticket was refundable.
30. Defendants failed to register or report the use of all fictitious business names, including Latin Explosion and El Palenque, with the Ohio Secretary of State prior to doing business in Ohio under such fictitious names.

PLAINTIFF'S FIRST CAUSE OF ACTION:

VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT

COUNT I

FAILURE TO DELIVER; SUBSTITUTION OF GOODS OR SERVICES

31. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Thirty (1-30) of this Complaint.
32. Defendants have committed unfair or deceptive acts or practices in violation of the Failure to Deliver Rule, Ohio Admin. Code 109:4-3-09(A)(1) and the Consumer Sales Practices Act, R.C. 1345.02(A), by advertising, promoting, printing and selling concert tickets for a concert, then failing to deliver the concert or refund consumers the purchase price of their tickets.
33. Such acts or practices 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 available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT II

SUBSTANTIATION OF CLAIMS IN ADVERTISING

34. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Thirty (1-30) of this Complaint.
35. Defendants have committed unfair or deceptive acts or practices in violation of the Substantiation of Claims in Advertising Rule, Ohio Admin. Code 109:4-3-10(A) and the Consumer Sales Practices Act, R.C. 1345.02(A), by making representations, claims, or assertions of fact, whether orally or in writing, which would cause a reasonable consumer to believe such statements are true by advertising, promoting, printing and selling concert tickets for the Los Temerarios concert that did not take place and was never scheduled.

COUNT III

UNFAIR AND DECEPTIVE CONSUMER SALES PRACTICES

36. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Thirty (1-30) of this Complaint.
37. Defendants have committed unfair or deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A), by advertising, promoting and representing to consumers that the subject of a consumer transaction had the sponsorship and approval of the band Los Temerarios that it did not have.
38. Defendants have committed unfair or deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A), by advertising, promoting and representing to consumers that the subject of a consumer transaction was available to the consumers for a reason that did not exist.

39. Such acts or practices 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 available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT IV

UNCONSCIONABLE CONSUMER SALES PRACTICES

40. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Thirty (1-30) of this Complaint.
41. Defendants have committed unconscionable acts or practices, in violation of the the Consumer Sales Practices Act, R.C. 1345.03(B)(3), by advertising, promoting, printing and selling concert tickets for a concert, when Defendants knew of the inability of the consumer to receive a substantial benefit from the subject of the consumer transaction, because Defendants knew that the concert would not take place.
42. Defendants have committed unconscionable acts or practices, in violation of the the Consumer Sales Practices Act, R.C. 1345.03(B)(5), by requiring consumers to enter into consumer transactions on terms the Defendants knew were substantially one-sided in favor of the supplier when Defendants advertised, promoted, printed and sold concert tickets for a concert, knowing that the concert would not take place.

COUNT V

FAILURE TO REGISTER ALL FICTITIOUS NAMES

43. Plaintiff incorporates by reference, as if completely rewritten herein, the

allegations set forth in paragraphs One through Thirty (1-30) of this Complaint.

44. Defendants have committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, 1345.02(A), by failing to register or report the use of all fictitious business names, including Latin Explosion and El Palenque with the Ohio Secretary of State prior to doing business in Ohio under such fictitious names, as required by R.C. 1329.01(D).
45. Such acts or practices 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 available for public inspection pursuant to R.C. 1345.05(A)(3).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court:

1. ISSUE A DECLARATORY JUDGMENT declaring that each act or practice described in Plaintiff's Complaint violates the Consumer Sales Practices Act in the manner set forth in this Complaint.
2. ISSUE PERMANENT INJUNCTIVE RELIEF enjoining Defendants, and their agents, servants, representatives, salespeople, employees, successors and assigns and all persons acting in concert or participating with them, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains and from further violating the Consumer Sales Practices Act, R.C. 1345.01 et seq.
3. ORDER Defendants, jointly and severally liable for reimbursement to all consumers found to have been damaged by the Defendants' unfair, deceptive,

and unconscionable acts and practices, including, but not limited to, making restitution to all consumers who purchased Los Temerarios concert tickets.

4. ASSESS, FINE AND IMPOSE upon Defendants, jointly and severally, a civil penalty of at least Twenty-Five Thousand Dollars (\$25,000.00) for each of the unfair, deceptive or unconscionable acts alleged in the complaint, pursuant to R.C. 1345.07(D).
5. ORDER, as a means of insuring compliance with this Court's Order and with the consumer protection laws of Ohio, Defendants to maintain in their possession and control for a period of five (5) years all business records relating to Defendants' business practices 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 records, and to maintain said records in a safe and secure manner in compliance with the Graham- Leach-Bliley Act.
6. GRANT the Ohio Attorney General his costs in bringing this action.
7. ORDER Defendants to pay all court costs.
8. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

RICHARD CORDRAY
Attorney General



ROSEMARY E. RUPERT (0042389)
Assistant Attorney General
Consumer Protection Section
30 East Broad Street, 14th Floor

Columbus, Ohio 43215-3428
(614) 466-8831
(614) 466-8898 (fax)
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Counsel for Plaintiff

LATIN EXPLOSION PRESENTA EN
EL PALENQUE
 DOMINGO 08 DE NOV
EL BAILE DEL AÑO



LOS TEMERARIOS
 con su grandes éxitos

PREVENIA \$ 38 Dhs. LOS PRIMEROS 300
 USAR UNO DE LOS SIGUIENTES SITIOS:
 Agencia de Baires: Los Michascanos Marplat, La Chaperita y La
 Lucernilla, La Francesa 1 y 2
 El Dorado, El Estrella, Ernest Cybercafé y en la Tienda del
 Party House

PATROCINADO POR
TECATE
 CERVEZA
 EVSET
 VIVE



LATIN EXPLOSION PRESENTA EN
EL PALENQUE
 DOMINGO 08 DE NOV
EL BAILE DEL AÑO



LOS TEMERARIOS
 con su grandes éxitos

PREVENIA \$ 35 Dhs. LOS PRIMEROS 300
 USAR UNO DE LOS SIGUIENTES SITIOS:
 Agencia de Baires: Los Michascanos Marplat, La Chaperita y La
 Lucernilla, La Francesa 1 y 2
 El Dorado, El Estrella, Ernest Cybercafé y en la Tienda del
 Party House

PATROCINADO POR
TECATE
 CERVEZA
 EVSET
 VIVE

Tel: 011 4946-9343, 011 0238-6347 011 0433-6531



800-631-6889
 EXHIBIT
 A

ANTHONY R. LOPEZ
 a Professional Corporation
LAW OFFICES LOPEZ & ASSOCIATES
 9025 Wilshire Boulevard, Suite 500
 Beverly Hills, California 90211
 Telephone: (310)276-4700
 Fax: (310)861-0509

November 18, 2009

Via facsimile (866)815-2523

Guy Cannon
 Investigator
 Ohio Attorney General
 30 E. Broad St., 17th Fl.
 Columbus, OH 43215

Re: "Los Temerarios"

Dear Mr. Cannon:

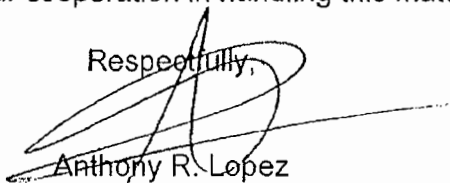
Please be advised that this firm is counsel to Temerarios International Tours, Inc., and Los Temerarios, collectively referred to as "Temerarios."

This letter confirms that the Temerarios did not negotiate nor enter into any discussions with any entity or person for their appearance and performance on November 8, 2009 at The Palenque Party House located at Columbus, Ohio.

Furthermore, on November 3, 2009, Temerarios' Booking Agency, William Morris Endeavor Entertainment, sent an email to Gil Garcia of radio station 103.1 FM "La X," Columbus, Ohio, informing him that there was no show scheduled on November 8, 2009 at The Palenque Party House and to cease all advertising immediately.

In the event, you should have any questions, please contact this office as soon as possible. Thank you for your cooperation in handling this matter.

Respectfully,



Anthony R. Lopez

cc: Mayra Alba, Temerarios International Tours, Inc.
 Michel Vega, William Morris Endeavor Entertainment

