

JOHN DOE EMPLOYEE 1 :
3750 Central Avenue :
Shadyside, Ohio 43947 :

and :

JOHN DOE EMPLOYEE 2 :
3750 Central Avenue :
Shadyside, Ohio 43947 :

and :

JOHN DOE EMPLOYEE 3 :
3750 Central Avenue :
Shadyside, Ohio 43947 :

Defendants/Respondents.¹ :

JURISDICTION AND VENUE

1. Plaintiff/Relator, Ohio Attorney General Michael DeWine, having reasonable cause to believe that violations of Ohio’s Consumer Protection and Public Nuisance 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 the Ohio Consumer Sales Practices Act (“CSPA”), R.C. 1345.01 et seq., and its Substantive Rules, Ohio Administrative Code, 109:4-3-01 et seq., and by Chapter 3767 of the Ohio Revised Code.
2. Plaintiff/Relator Michael DeWine is charged at law and in equity with preventing, prosecuting, and abating any public nuisance in the State of Ohio. This action is brought in DeWine’s official capacity.

¹ The action brought pursuant to the Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq., only applies to Defendants/Respondents Shadyside Party Center and Stacey M. Heathcote, Individually and as Owner of Shadyside Party Center. The action brought pursuant to Ohio’s Public Nuisance laws pertains to all named Defendants/Respondents in this matter.

3. The actions of Defendants/Respondents, hereinafter described, have occurred in Belmont County and the State of Ohio, and as set forth below are in violation of the CSPA and its Substantive Rules, as well as the statutory and common law prohibitions against public nuisances.
4. This court has subject matter jurisdiction over this action pursuant to R.C. 1345.04, R.C. 3767.03 and R.C. 4729.53.
5. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3), in that some of Defendants' actions complained of herein, and out of which this action arose, occurred in Belmont County, Ohio.

DEFENDANTS/RESPONDENTS

6. Defendant/Respondent Shadyside Party Center is an Ohio business² with its principal place of business located at 3750 Central Avenue, Shadyside, Ohio 43947.
7. Defendant/Respondent Stacey M. Heathcote ("Stacey Heathcote") is a resident of the State of Ohio and Belmont County and is the owner of Shadyside Party Center.
8. Defendant/Respondent Heathcote is being sued in her individual capacity, as well as her official capacity as business owner of Shadyside Party Center and as property owner as the real property located at 3750 Central Avenue, Shadyside, Ohio 43947 is owned by Stacey Heathcote.
9. On information and belief, Heathcote, at all times relevant hereto, operated, dominated, controlled and directed the activities of Shadyside Party Center, causing, personally

² Shadyside Party Center was previously incorporated with the Ohio Secretary of State. However, the Secretary of state cancelled the Articles of Incorporation/Certificate of Authority for Shadyside Party Center, Inc. on May 7, 2009 for failure to file the necessary corporate franchise tax reports or pay any such taxes within the time prescribed by law.

participating in, and/or ratifying the acts and practices of Shadyside Party Center, as described in this Complaint. Accordingly, Heathcote is liable for those acts in which she personally participated as well as the acts of Shadyside Party Center, its employees and other agents because Heathcote controlled and/or directed these acts.

10. Defendant/Respondent John Doe Employee 1 is believed to be a resident of the State of Ohio and is an employee of Shadyside Party Center.
11. Defendant/Respondent John Doe Employee 2 is believed to be a resident of the State of Ohio and is an employee of Shadyside Party Center.
12. Defendant/Respondent John Doe Employee 3 is believed to be a resident of the State of Ohio and is an employee of Shadyside Party Center.
13. Shadyside Party Center and Heathcote are “suppliers,” as defined in R.C. 1345.01(C), as Shadyside Party Center and Heathcote are, and have been, at all times relevant herein, engaged in the business of effecting consumer transactions by soliciting, offering, and selling “incense” and “potpourri” products to individuals in Belmont County in the State of Ohio for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).
14. For purposes of this Complaint, the term “Defendants/Respondents,” unless otherwise specified, shall refer to all Defendants/Respondents; and when used in conjunction with allegations of unlawful conduct, shall mean that each Defendant/Respondent committed such act and/or is legally accountable for such act.

STATEMENT OF FACTS

15. Shadyside Party Center and Stacey Heathcote are, and have been at all relevant times, engaged in the business of soliciting, offering, and selling, *inter alia*, synthetic narcotics/illegal drugs to consumers which were represented as “Incense” and “Potpourri.”
16. Shadyside Party Center and Heathcote sell synthetic narcotics/illegal drugs in packets that fail to disclose the full list of ingredients contained in the products and further omit the illegal ingredients contained in the products.
17. Between March 4, 2013 and March 13, 2013, the Ohio Bureau of Criminal Identification and Investigation (“BCI&I”) and the Belmont County Sheriff’s Office conducted undercover investigations into Shadyside Party Center and Heathcote’s sale of synthetic narcotics/illegal drugs as legal products.
18. On March 4, 2013, Special Agent Matt Steinbrook (“S/A Steinbrook”), operating in an undercover capacity at the direction of BCI&I and the Belmont County Sheriff’s Office, went to Shadyside Party Center, located at 3750 Central Avenue, Shadyside, Ohio 43947, for the purpose of purchasing synthetic narcotics/illegal drugs. (Affidavit of S/A Steinbrook, Exhibit 1 at ¶3)
19. Upon entering Shadyside Party Center, S/A Steinbrook could see the store’s inventory of synthetic drugs in a glass display case under the counter. (Id. at ¶4)
20. S/A Steinbrook spoke to a female employee, later identified as Stacey Heathcote, the owner of Shadyside Party Center, about these substances. (Id.)

21. S/A Steinbrook told Heathcote that he was trying to decide which of the packages to get. S/A Steinbrook then told her that he wanted to buy one packet of “Purple Haze - Kryptonite” and one packet of the “Kush Max.” (Id.)
22. Heathcote removed the items from the case and told S/A Steinbrook that the total cost would be \$45.00. (Id. at ¶5)
23. S/A Steinbrook purchased a 2.5 gram packet of “incense” and a 3 gram packet of “potpourri” suspected to be synthetic narcotics from Heathcote for a total of \$45.00. (Id.)
24. The 2.5 gram of “incense” was labeled as “Kush Max” on one side and on the other side claimed that its main ingredients were “Mullien Leaf, hops, Lemon balm, Indian Leaves, passion flower, and wild lettuce.” (March 14, 2013 Affidavit of BCI&I Forensic Scientist Erin Reed, Exhibit 2 at ¶3)
25. The “Kush Max” packet further claimed that it “Contains no nicotine [*sic*] or tobacco products.” (Id.)
26. The “Kush Max” packet contained the following notices: “KEEP OUT OF REACH OF CHILDREN,” and “NOT INTENDED FOR HUMAN CONSUMPTION.” (Id.)
27. A portion at the bottom of the packet referenced lab certification and contents, but a sticker reading “ORIGINAL” “Wild Incense” and “In accordance with New Federal Law S. 3187 Effective July 9, 2012” was affixed to the packet, obstructing the language.” (Id.)
28. Although the “Kush Max” packet claimed it contained natural ingredients and that it was in compliance with synthetic drug laws, when tested, the vegetation inside the packet of “Kush Max” incense did contain [1-(5-fluoropentyl)indol-3-yl]-(2,2,3,3-tetramethylcyclopropyl)methanone (“XLR11”). (March 8, 2013 BCI&I Laboratory

Report No. 13-11953 and March 18, 2013 Affidavit of BCI&I Forensic Scientist Erin Reed, Exhibit 3)

29. XLR11 is a Schedule 1 Controlled Substance. (See R.C. 3719.41(C)(41))
30. The 3 gram packet of “potpourri” that was labeled as “Purple Haze – Kryptonite,” noted the website “www.indiScent.com” and claimed that it was a “NEW AND IMPROVED FORMULA” and that it was “100% COMPLIANT GUARANTEED.” (Reed Affidavit, Exhibit 2 at ¶5)
31. The reverse side of the “Purple Haze” packet contained the following labeling: “MADE IN THE USA” and “100% CHEMICAL FREE,” and “100% SYNTHETIC FREE.” (Id.)
32. The “Purple Haze” packet also noted that “This product is made with only the finest herbs and their extracts. Package includes all of the following: Kratom Kanna Blue Lotus Wild Dagga” and that “No ingredient has been left out.” (Id.)
33. The “Purple Haze” packet also contained the following instructions: “INSTRUCTIONS Place the POTPOURRI in a clear and open area free from drafts or flammable materials. NEVER leave burning POTPOURRI unattended.” (Id.)
34. Additionally, the “Purple Haze” packet contained the following warning: “WARNINGS DO NOT INHALE. DO NOT CONSUME.” (Id.)
35. Although the “Purple Haze” packet claimed it did not contain any chemicals or synthetics, when tested, the vegetation inside the packet of “Purple Haze” incense did contain XLR11. (BCI&I Lab Report No. 13-11953 and Reed Affidavit, Exhibit 3)
36. On March 13, 2013, S/A Steinbrook, again operating in an undercover capacity and under the direction of BCI&I and the Belmont County Sheriff’s Office, went to Shadyside Party

- Center, located at 3750 Central Avenue, Shadyside, Ohio 43947, for the purpose of purchasing synthetic narcotics/illegal drugs. (S/A Steinbrook Affidavit, Exhibit 1 at ¶7)
37. Upon entering Shadyside Party Center, S/A Steinbrook approached the glass display case where the synthetic narcotics were displayed for sale. (Id. at ¶8)
38. There were three female employees working behind the counter – Defendants/Respondents John Does 1-3. Again, S/A Steinbrook observed numerous boxes containing various brands and weights of synthetic narcotics on display for sale. (Id.)
39. S/A Steinbrook spoke to the three employees regarding the brands that they had and asked if they had the “OMG” in a 4 gram packet. (Id.)
40. In response, one of the employees indicated that they did have “OMG.” (Id.)
41. S/A Steinbrook then asked to purchase both “OMG” and “Purple Haze.” (Id. at ¶9).
42. The employees told S/A Steinbrook that the “OMG” was \$25.00 and the “Purple Haze” was \$20.00. (Id.)
43. After some discussion, S/A Streinbrook told them he would like to buy five packs of “OMG” and four packs of “Purple Haze.” (Id.)
44. The younger female employee then removed the packs from behind the counter while the older female employee totaled the cost and quoted a price of \$250.00. (Id.)
45. S/A Steinbrook purchased a total of nine packs of “potpourri” and “incense” suspected to be synthetic narcotics for a total of \$250.00. (Id.)
46. The five packets of “potpourri” were sold in 4 gram packets and were labeled as “OMG.” (March 18, 2013 Affidavit of BCI&I Forensic Scientist Stanton Wheasler, Exhibit 4 at ¶3)

47. Each packet of “OMG” was labeled as “NEXT GENERATION” and “HERBAL POTPOURRI” and claimed that it “Does not contain AM 2201 or any DEA Banned Substances.” (Id.)
48. The reverse side of each packet of “OMG” contained the following label: “NOT FOR HUMAN CONSUMPTION,” “OMG IS SOLD AS POTPOURRI. STROKE THE FURRY BAG”, “THIS POTPOURRI DOES NOT CONTAIN AM 2201, JWH-081, JWH-019, JWH-018, JWH-073, HU-211, JWH-015, JWH-200, JWH-250, HU-210, CP47, 497 ALONG WITH STIMULANT BZP AND TFMPP.” (Id.)
49. In addition, each packet of “OMG” noted that it was “NOT FOR CONSUMPTION. NOT FDA APPROVED.” (Id.)
50. Although each packet of the “OMG” “potpourri” claimed that it did not contain any illegal or banned substances, when tested, the vegetation inside all five packets of “OMG” did contain the illegal substance XLR11. (March 15, 2013 BCI&I Laboratory Report No. 13-11953 and March 15, 2013 Affidavit of BCI&I Forensic Scientist Stanton Wheasler, Exhibit 5)
51. The four packets of “incense” were sold in 3 gram packets and were labeled as “Purple Haze – Kryptonite.” (Wheasler Affidavit, Exhibit 4 at ¶5).
52. Each packet of “Purple Haze – Kryptonite” noted the website “www.indiScent.com” and claimed that it was a “NEW AND IMPROVED FORMULA” and that it was “100% COMPLIANT GUARANTEED.” (Id.)
53. The reverse side of each “Purple Haze” packet contained the following labeling: “MADE IN THE USA” and “100% CHEMICAL FREE,” and “100% SYNTHETIC FREE.” (Id.)

54. Each packet of “Purple Haze” also noted that “This product is made with only the finest herbs and their extracts. Package includes all of the following: Kratom Kanna Blue Lotus Wild Dagga” and that “No ingredient has been left out.” (Id.)
55. Each “Purple Haze” packet also contained the following instructions: “INSTRUCTIONS Place the POTPOURRI in a clear and open area free from drafts or flammable materials. NEVER leave burning POTPOURRI unattended.” (Id.)
56. Additionally, each “Purple Haze” packet contained the following warning: “WARNINGS DO NOT INHALE. DO NOT CONSUME.” (Id.)
57. Although each “Purple Haze” packet claimed it did not contain any chemicals or synthetics, when tested, the vegetation inside each packet of “Purple Haze” incense did contain XLR11. (BCI&I Lab Report No. 13-11953 and Wheasler Affidavit, Exhibit 5)
58. “Incense” is defined as “material used to produce a fragrant odor when burned” or “the perfume exhaled from some spices and gums when burned.” (<http://www.merriam-webster.com/dictionary/incense>)
59. “Potpourri” is defined as “a mixture of flowers, herbs, and spices that is usually kept in a jar and used for scent.” (<http://www.merriam-webster.com/dictionary/potpourri>)
60. Unlike typical incense, which is composed of certain biotic materials, or typical potpourri, which is composed of naturally fragrant plant materials, the vegetation represented as incense and potpourri and sold by Shadyside Party Center and Stacey Heathcote is coated with illegal and dangerous synthetic compounds that, when consumed, mimic the psychoactive and physiological effects of Tetrahydrocannabinol (“THC”), the active ingredient in cannabis. (www.dea.gov)

61. Shadyside Party Center and Stacey Heathcote sold products labeled as “incense” and “potpourri” which contained illegal Schedule 1 Controlled Substances and for which the ordinary and customary use for such products is to be smoked and consumed as a drug by humans.
62. Shadyside Party Center and Stacey Heathcote offered for sale and sold synthetic narcotics/illegal drugs as legal products.

PLAINTIFF/RELATOR’S FIRST CAUSE OF ACTION:

VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT

COUNT I

UNFAIR AND DECEPTIVE ACTS AND PRACTICES

63. Paragraphs 1-62 of this Complaint are incorporated herein by reference.
64. Defendants/Respondents Shadyside Party Center and Stacey Heathcote have committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by offering for sale and selling synthetic narcotics/illegal drugs as legal products.
65. Defendants/Respondents Shadyside Party Center and Stacey Heathcote have committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by failing to clearly and conspicuously disclose that their products contained Schedule 1 Controlled Substances, thus making the products illegal.
66. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendants/Respondents Shadyside Party Center and Stacey Heathcote have committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT II

UNCONSCIONABLE ACTS OR PRACTICES

67. Paragraphs 1-62 of this Complaint are incorporated herein by reference.
68. Defendants/Respondents Shadyside Party Center and Stacey Heathcote have committed unconscionable acts or practices in violation of the CSPA, R.C. 1345.03(A), by offering for sale and selling synthetic narcotics/illegal drugs as legal products.
69. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendants/Respondents Shadyside Party Center and Stacey Heathcote have committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT III

EXCLUSIONS AND LIMITATIONS IN ADVERTISEMENTS

70. Paragraphs 1-62 of this Complaint are incorporated herein by reference.
71. Defendants/Respondents Shadyside Party Center and Stacey Heathcote have committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), and the Exclusions and Limitations in Advertising Rule, Ohio Admin. Code 109:4-3-02(A)(1), by failing to clearly and conspicuously disclose, certain material exclusions related to their “incense” and “potpourri” products. Specifically, while Defendants/Respondents Shadyside Party Center and Stacey Heathcote’s “incense” and “potpourri” products contained statements that they did not contain any prohibited ingredients or that they only contained certain ingredients, Defendants/Respondents Shadyside Party Center and Stacey Heathcote failed to disclose that the products contained Schedule 1 Controlled Substances, thus making the products illegal.

PLAINTIFF/RELATOR'S SECOND CAUSE OF ACTION:

PUBLIC NUISANCE

COUNT I: PUBLIC NUISANCE (R.C. 3719.10)

72. Paragraphs 1-62 of this Complaint are incorporated herein by reference.
73. Defendants/Respondents have committed, participated in the commission of, and/or aided and abetted in the commission of felony violations of R.C. 2925.03, Trafficking in Drugs, at Shadyside Party Center.
74. Defendants/Respondents have had reasonable cause to believe that a public nuisance existed or exists at Shadyside Party Center and have failed to abate the nuisance.
75. The property at 3750 Central Avenue, Shadyside, Ohio 43947 is a public nuisance as defined by R.C. 3719.10 and is subject to abatement.
76. Defendants/Respondents are guilty of maintaining a public nuisance.

COUNT II: PUBLIC NUISANCE (R.C. 4729.35)

77. Paragraphs 1-62 of this Complaint are incorporated herein by reference.
78. The chemicals XLR11 is a controlled substance as defined in R.C. 3719.41 and is therefore a “drug of abuse” as defined in R.C. 3719.11(A).
79. Defendants/Respondents have committed, participated in the commission of, and/or abetted the commission of violations of R.C. 2925.03, a law of the State of Ohio controlling the distribution of a drug of abuse.
80. The property at 3750 Central Avenue, Shadyside, Ohio 43947 is a public nuisance subject to abatement as defined in R.C. 4729.35.

COUNT III: COMMON LAW NUISANCE

- 81. Paragraphs 1-62 of this Complaint are incorporated herein by reference.
- 82. Defendants/Respondents have committed, participated in, or acquiesced to the commission and participation in trafficking in drugs in violation of R.C. 2925.03.
- 83. Violations of R.C. 2925.03 at 3750 Central Avenue, Shadyside, Ohio 43947 unreasonably interfere with the public right to health, safety, peace, and comfort, thereby creating a public nuisance.
- 84. The public nuisance that exists at 3750 Central Avenue, Shadyside, Ohio 43947 creates a potential risk of harm that has resulted in injury to others.
- 85. Defendants/Respondents have created, maintained, fostered, or acquiesced to the public nuisance that exists at 3750 Central Avenue, Shadyside, Ohio 43947, and are therefore liable for the nuisance.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff/Relator respectfully prays that this Court:

- A. ISSUE A DECLARATORY JUDGMENT declaring that each act or practice described in Plaintiff/Relator's Complaint as noted in the Statement of Facts and Plaintiff/Relator's First Cause of Action violates the CSPA, R.C. 1345.01 et seq., and its Substantive Rules, in the manner set forth in this Complaint.
- B. ISSUE PERMANENT INJUNCTIVE RELIEF, pursuant to R.C. 1345.07, enjoining Defendants/Respondents Shadyside Party Center and Stacey Heathcote, under their own names or any other names, and all persons acting on behalf of Defendants/Respondents Shadyside Party Center and Stacey Heathcote, directly or indirectly, through any corporate or private device, partnership or associations, jointly and severally, from

engaging in the acts or practices of which Plaintiff/Relator complains and from further violating the CSPA, R.C. 1345.01 et seq., and its Substantive Rules.

- C. ISSUE PERMANENT INJUNCTIVE RELIEF enjoining Defendants/Respondents Shadyside Party Center and Stacey Heathcote from acting as suppliers and soliciting or engaging in any consumer transactions in the State of Ohio as suppliers until the final ordered resolution of this matter is satisfied in its entirety.
- D. ASSESS, FINE, AND IMPOSE upon Defendants/Respondents Shadyside Party Center and Stacey Heathcote a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein, pursuant to R.C. 1345.07(D).
- E. ISSUE A DECLARATORY JUDGMENT, in accordance with R.C. 3767.02, declaring that all Defendants/Respondents be declared guilty of maintaining a nuisance.
- F. ISSUE A DECLARATORY JUDGMENT declaring that the property located at 3750 Central Avenue, Shadyside, Ohio 43947 (Parcel ID No. 17-01932.000) is a public nuisance as defined in R.C. 2923.42, R.C. 3719.10, and R.C. 4729.35, and that Defendants/Respondents be found guilty of maintaining that nuisance.
- G. ISSUE PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF, in accordance with Chapter 3767, enjoining Defendants/Respondents, and any heirs, assigns, successors in interest or title, from conducting, maintaining, using, occupying, or in any way permitting the use of the premises at 3750 Central Avenue, Shadyside, Ohio 43947, as a public nuisance.
- H. ISSUE PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF enjoining Defendants/Respondents, along with any owners, members, or partners of the business, from occupying, using, or being at 3750 Central Avenue, Shadyside, Ohio 43947.

- I. ISSUE PERMANENT INJUNCTIVE RELIEF enjoining Defendants/Respondents Stacey Heathcote and John Doe Employees 1-3 from operating, owning, having an ownership interest in, or being employed at a retail grocery or convenience store.
- J. ORDER that the property located at 3750 Central Avenue, Shadyside, Ohio 43947 be padlocked and closed against all use for a period of one year from final judgment.
- K. ORDER that upon final judgment, that the Belmont County Sheriff's Office and/or BCI&I be ordered to sell the furniture, fixtures, moveable property, and any other item located on the property and used in maintaining the nuisance in the manner provided for the sale of chattels under execution.
- L. Order that Defendants/Respondents be taxed Three Hundred Dollars (\$300.00) in accordance with R.C. 3767.09, plus the costs of this action.
- M. ORDER Defendants/Respondents to reimburse the Ohio Attorney General for all costs incurred in bringing this action.
- N. ORDER Defendants/Respondents to pay all court costs associated with this action.
- O. GRANT such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General



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STATE OF OHIO)
)
COUNTY OF Franklin) SS: AFFIDAVIT OF
 SPECIAL AGENT MATT STEINBROOK

AFFIDAVIT

I, Special Agent Matt Steinbrook, being first duly sworn according to law, depose and say that I am of full legal age, have personal knowledge of all the facts herein, and am competent to testify to the matter set forth. Further, I state that:

1. I am a Special Agent with the Ohio Bureau of Criminal Identification and Investigation (BCI&I). In this position I am involved in a variety of investigations, some of which involve operating in an undercover capacity to gather information.
2. The Belmont County Sheriff's Office received information that Shadyside Party Center, located at 3750 Central Avenue, Shadyside, Ohio 43947, was selling synthetic narcotics.
3. On March 4, 2013, operating in an undercover capacity and under the direction of BCI&I and the Belmont County Sheriff's Office, I went to Shadyside Party Center for the purpose of purchasing synthetic narcotics.
4. I entered the store and could see the store's inventory of synthetic drugs in a glass display case under the counter. I spoke to a female employee, later identified as Stacey Heathcote, an owner of Shadyside Party Center, about these substances. I told Heathcote that I was trying to decide which of the packages to get. I then told her that I would like to buy one (1) "Purple Haze-Kryptonite" (3 gram) and one (1) of the "Kush Max" (2.5 gram).
5. Heathcote removed the items from the case and told me the total cost would be \$45.00. I gave Heathcote \$45.00 in BCI&I confidential funds to make the purchase. Heathcote took the money and gave me the two packages. It should be noted that the transaction was not completed on a cash register and no sales tax was added. In addition, it should be noted that there were numerous boxes of the synthetic drugs in the display case. Each box contained dozens of packages.
6. On March 5, 2013, the two (2) packets described in paragraphs #3-5 were submitted to the BCI&I Laboratory with instructions to test for the presence of a controlled substance.
7. On March 13, 2013, again operating in an undercover capacity and under the direction of BCI&I and the Belmont County Sheriff's Office, I went to Shadyside Party Center for the purpose of purchasing synthetic narcotics.
8. I entered the store and approached the glass display case where the synthetic narcotics were displayed for sale. There were three (3) female employees working behind the



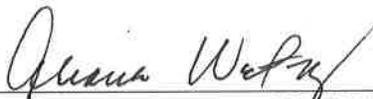
counter. Again, I observed numerous boxes containing various brands and weights of synthetic narcotics on display for sale. I spoke to the employees regarding the brands that they had and asked if they had the "OMG" in a 4 gram bag. One of the employees indicated that they did have "OMG."

9. I asked to purchase both "OMG" and "Purple Haze." The employees told me the "OMG" was \$25.00 and the "Purple Haze" was \$20.00. After some discussion, I told them I would like to buy five (5) packs of "OMG" (4 gram) and four (4) packs of "Purple Haze" (3 gram). The younger female employee then removed the packs from behind the counter while the older female employee totaled the cost and quoted me a price of \$250.00. I paid them \$250.00 in BCI&I confidential funds and in return they handed me the products.
10. On March 13, 2013, the nine (9) packets described in paragraphs #7-9 were submitted to the BCI&I Laboratory with instructions to test for the presence of a controlled substance.

FURTHER AFFIANT SAYETH NAUGHT.


SPECIAL AGENT MATT STEINBROOK

Sworn to and subscribed in my presence this 19th day of MARCH, 2013
in the City of CLEVELAND, County of FRANKLIN, State of Ohio.


NOTARY PUBLIC
My Commission Expires 5.4.2013

STATE OF OHIO)
) SS: AFFIDAVIT OF
COUNTY OF MADISON) ERIN C. REED

AFFIDAVIT

I, Erin C. Reed, being first duly sworn according to law, depose and say that I am of full legal age, have personal knowledge of all the facts herein, and am competent to testify to the matter set forth. Further, I state that:

1. I am currently employed as a Forensic Scientist at the Ohio Bureau of Criminal Identification & Investigation (BCI&I). During the normal course of my work, I make observations and notations that include a detailed description of items I analyze.
2. In my official capacity, I performed a qualitative analysis in BCI&I case number 13-11953 which consisted of two packets containing vegetation.
3. Item 1.1 was one (1) multicolored (black with variously colored markings) sealed zip packet marked "KUSH MAX". In addition, the packet also contained the following labeling on one side: "2.5G". The reverse side contained the following labeling: "Main Ingredients: Mullien Leaf, hops, Lemon balm, Indian Leaves, passion flower, and wild Lettuce. Contains no nicotine or tobacco products," "KEEP OUT OF REACH OF CHILDREN," "NOT INTENDED FOR HUMAN CONSUMPTION" A portion at bottom discusses lab certification and contents, but a sticker reading "ORIGINAL," "Wild Incense," and "In accordance with New Federal Law S. 3187 Effective July 9, 2012" is affixed to packet obstructing the language.
4. Item 1.1 was found to contain [1-(5-fluoropentyl)indol-3-yl]-(2,2,3,3-tetramethylcyclopropyl)methanone (XLR11).
5. Item 1.2 was one (1) multicolored (primarily purple with variously colored markings) sealed, zip packet marked "PURPLE HAZE". In addition, the packet also contained the following labeling on one side: "100% COMPLIANT GUARANTEED," "PURPLE HAZE," "kryptonite," "NEW AND IMPROVED FORMULA," "3 g," www.indiScent.com. The reverse side contained the following labeling: "MADE IN THE USA," "100% CHEMICAL FREE," "100% SYNTHETIC FREE," "www.facebook.com/indiScent," "WARNING DO NOT INHALE. DO NOT CONSUME," "This product is made with only the finest herbs and their extracts. Package includes all of the following: Kratom Kanna Blue Lotus Wild Dagga," "INSTRUCTIONS Place the POTPOURRI in a clear and open area free from drafts or flammable materials. NEVER leave burning POTPOURRI unattended," "www.indiScent.com," No ingredient has been left out," "Questions or Comments? info@indiScent.com".

6. Item 1.2 was found to contain [1-(5-fluoropentyl)indol-3-yl]-(2,2,3,3-tetramethylcyclopropyl)methanone (XLR11).

FURTHER AFFIANT SAYETH NAUGHT.

Erin C. Reed
ERIN C. REED, AFFIANT

Sworn to and subscribed in my presence this 14th day of March, 2013
in the City of London, County of Madison, State of Ohio.

Rebecca Hagg
NOTARY PUBLIC
My Commission Expires 5/4/2014



MIKE DEWINE

★ OHIO ATTORNEY GENERAL ★

Bureau of Criminal Identification and Investigation

Laboratory Report

To: Belmont County Drug Task Force
Det. Kyle Benedict
147A West Main Street
St. Clairsville, OH 43950

BCI&I Laboratory Number: 13-11953

Date: March 08, 2013

Agency Case Number: 13-0039-TF

BCI Agent: Amy Allen

Offense: Drug Trafficking
Subject(s): Shadyside Party Center
Victim(s): State of Ohio

Submitted on March 05, 2013 by Dep. Kyle Benedict:

1. Plastic bag containing packets containing vegetation.

Findings

- 1.1. One (1) multicolored packet marked "KUSH MAX" containing vegetable matter - 2.2 grams - found to contain [1-(5-fluoropentyl)indol-3-yl]-(2,2,3,3-tetramethylcyclopropyl)methanone (XLR11).
- 1.2. One (1) multicolored packet marked "PURPLE HAZE" containing vegetable matter - 1.4 grams - found to contain [1-(5-fluoropentyl)indol-3-yl]-(2,2,3,3-tetramethylcyclopropyl)methanone (XLR11).

Erin C. Reed
Forensic Scientist
(740) 845-2204
erin.reed@ohioattorneygeneral.gov



Please address inquiries to the office indicated, using the BCI&I case number.

BCI & I-Bowling Green Office
1616 E. Wooster St.-18
Bowling Green, OH 43402
Phone:(419)353-5603

BCI & I-London Office
P.O. Box 365
London, OH 43140
Phone:(740)845-2000

BCI & I-Richfield Office
4055 Highlander Pkwy. Suite A
Richfield, OH 44286
Phone:(330)659-4600



Analytical findings offered above were determined using accepted forensic drug chemistry methods. Hypergeometric sampling may be specified in the findings above. The application of hypergeometric sampling establishes a ninety-five percent (95) confidence level that at least ninety percent (90) of the units in the sample are as reported.

Based on scientific analyses performed, this report contains opinions and interpretations by the analyst whose signature appears above. Examination documentation and any demonstrative data supporting laboratory conclusions are maintained by BCI and will be made available for review upon request.

AFFIDAVIT

STATE OF OHIO)
)
) SS.
COUNTY OF MADISON)

I, Erin C. Reed, being duly sworn state as follows:

I am an Ohio Bureau of Criminal Identification and Investigation (BCI&I) Laboratory employee and performing laboratory analysis is part of my regular duties. My education, training and experience for performing analyses of material are outlined as follows:

EDUCATION

1. Juris Doctor degree from Capital University Law School, 2009. Courses in Evidence, Criminal Law, Criminal Procedure, Constitutional Law, and Trial Advocacy.
2. Bachelor of Science degree in Chemistry from the College of Mount Saint Joseph, Cincinnati, Ohio, 2003. Courses in Biology, General Chemistry, Analytical Chemistry, Organic Chemistry, Advanced Organic Chemistry, Physical Chemistry, Inorganic Chemistry, Biochemistry, Physics, Instrumental Analysis, and Mathematics.

TRAINING

1. Drugs, Analogs, and Controlled substance analogs workshop with BCI&I.
2. Forensic Chemistry Seminar with the Federal Drug Enforcement Administration, Special Research and Testing Laboratory, Dulles, Virginia.
3. Specialized training at Ohio BCI&I's Northeast Laboratory in the analysis of controlled substances and dangerous drugs.
4. Chemical research specializing in Organic Synthesis at Miami University of Ohio.
5. Chemical research specializing in Organic Synthesis at the College of Mount Saint Joseph.
6. Chemical research specializing in NMR Spectroscopy at the University of Cincinnati.

EXPERIENCE

1. Employed with the BCI&I as a Forensic Chemist from March 2004 to April 2007, and from May 2012 to present, identifying dangerous drugs and controlled substances.

2. Employed as an Assistant Attorney General with the Ohio Attorney General's Office from November 2009 to May 2012.
3. Employed as a Policy & Law Analyst with the Ohio Attorney General's Office from April 2007 to August 2009.

PROFESSIONAL ORGANIZATIONS

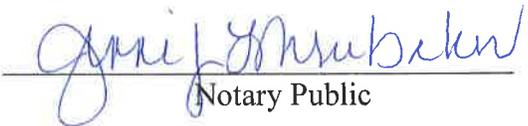
1. Midwestern Association of Forensic Scientists (MAFS)
2. Ohio State Bar Association (OSBA)
3. American Bar Association (ABA)

I further attest that in case number 13-11953, scientifically accepted tests were performed with due caution and evidence was handled in accordance with established and accepted procedures while in the custody of BCI&I's laboratory.

FURTHER AFFIANT SAYETH NAUGHT.


Erin C. Reed

The foregoing instrument was sworn and acknowledged before me this 18th day of March, 2013 by Forensic Scientist Erin Colleen Reed.


Notary Public



JENNIFER L. BRUBAKER
Notary Public, State of Ohio
My Commission Expires 4/19/15

OHIO REVISED CODE 2925.51 (C) & (D)

THE ATTACHED LAB REPORT IS PRIMA FACIE EVIDENCE OF THE CONTENT, IDENTITY, WEIGHT OR NUMBER OF UNIT DOSES OF THE SUBJECT-SUBSTANCE AND IS ADMISSIBLE WITHOUT FURTHER TESTIMONIAL EVIDENCE.

THE ACCUSED HAS THE RIGHT TO DEMAND THE REPORT SIGNER'S TESTIMONY AND CAN DEMAND THE REPORT SIGNER'S TESTIMONY BY SERVING A DEMAND FOR THE REPORT SIGNER'S TESTIMONY UPON THE PROSECUTING ATTORNEY WITHIN 7 DAYS FROM THE DATE THE ACCUSED OR THE ACCUSED'S ATTORNEY RECEIVES THE ATTACHED LAB REPORT.

STATE OF OHIO)
)
COUNTY OF MADISON) SS: AFFIDAVIT OF
 STANTON WHEASLER

AFFIDAVIT

I, Stanton Wheasler, being first duly sworn according to law, depose and say that I am of full legal age, have personal knowledge of all the facts herein, and am competent to testify to the matter set forth. Further, I state that:

1. I am currently employed as a Forensic Scientist at the Ohio Bureau of Criminal Identification & Investigation (BCI&I). During the normal course of my work, I make observations and notations that include a detailed description of items I analyze.
2. In my official capacity, I performed a qualitative analysis in BCI&I case number 13-11953 which consisted of nine (9) packets containing vegetation.
3. Item 2.1 was five (5) multi-colored sealed zip packets marked "OMG". In addition, the packet also contained the following labeling on one side: "4 g", "NEXT GENERATION", "HERBAL POTPOURRI", "Does not contain AM 2201 or any DEA Banned Substances". The reverse side contained the following labeling: "NOT FOR HUMAN CONSUMPTION", "OMG IS SOLD AS POTPOURRI. STROKE THE FURRY BAG", "THIS POTPOURRI DOES NOT CONTAIN AM 2201, JWH-081, JWH-019, JWH-018, JWH-073, HU-211, JWH-015, JWH-200, JWH-250, HU-210, CP47, 497 ALONG WITH STIMULANT BZP AND TFMPP", "NOT FOR CONSUMPTION. NOT FDA APPROVED.", "SCAN THIS TO REGISTER FOR FREE PRODUCT GIVEWAYS" (graphic pointing to Q code), "WWW.MR-NICE-GUY.COM".
4. Item 2.1 was found to contain [1-(5-fluoropentyl)indol-3-yl]-(2,2,3,3-tetramethylcyclopropyl)methanone (XLR11).
5. Item 2.2 was four (4) multicolored (primarily purple with variously colored markings) sealed, zip packets marked "PURPLE HAZE". In addition, the packet also contained the following labeling on one side: "100% COMPLIANT GUARANTEED," "PURPLE HAZE," "kryptonite," "NEW AND IMPROVED FORMULA," "3 g," www.indiScent.com. The reverse side contained the following labeling: "MADE IN THE USA," "100% CHEMICAL FREE," "100% SYNTHETIC FREE," "www.facebook.com/indiScent," "WARNING DO NOT INHALE. DO NOT CONSUME," "This product is made with only the finest herbs and their extracts. Package includes all of the following: Kratom Kanna Blue Lotus Wild Dagga," "INSTRUCTIONS Place the POTPOURRI in a clear and open area free from drafts or flammable materials. NEVER leave burning POTPOURRI unattended," "www.indiScent.com," No ingredient has been left out," "Questions or Comments? info@indiScent.com".

STATE'S
EXHIBIT

4

6. Item 2.2 was found to contain [1-(5-fluoropentyl)indol-3-yl]-(2,2,3,3-tetramethylcyclopropyl)methanone (XLR11).

FURTHER AFFIANT SAYETH NAUGHT.



STANTON WHEASLER, AFFIANT

Sworn to and subscribed in my presence this 18th day of March, 2013
in the City of London, County of Madison, State of Ohio.



JENNIFER L. BRUBAKER
Notary Public, State of Ohio
My Commission Expires 4/19/15



NOTARY PUBLIC
My Commission Expires 4/19/15



MIKE DEWINE

★ OHIO ATTORNEY GENERAL ★

Bureau of Criminal Investigation

Laboratory Report

To: Belmont County Drug Task Force
Det. Kyle Benedict
147A West Main Street
St. Clairsville, OH 43950

BCI Laboratory Number: 13-11953
Date: March 15, 2013

Agency Case Number: 13-0039-TF
BCI Agent: Amy Allen

Offense: Drug Trafficking
Subject(s): Shadyside Party Center
Victim(s): State of Ohio

Submitted on March 13, 2013 by S/A Amy Allen:

- 2. Plastic bag containing packets containing vegetation.

Findings

- 2.1. Five (5) packets marked "OMG" containing vegetation - 18.6 grams - found to contain [1-(5-fluoropentyl)indol-3-yl]-(2,2,3,3-tetramethylcyclopropyl)methanone (XLR11).
- 2.2. Four (4) packets marked "Purple Haze - 10x - Kryptonite" containing vegetation - 11.2 grams - found to contain [1-(5-fluoropentyl)indol-3-yl]-(2,2,3,3-tetramethylcyclopropyl)methanone (XLR11).

Stanton Wheasler
Forensic Scientist
740-845-2623
Stanton.Wheasler@ohioattorneygeneral.gov



Please address inquiries to the office indicated, using the BCI case number.

BCI -Bowling Green Office
1616 E. Wooster St.-18
Bowling Green, OH 43402
Phone:(419)353-5603

BCI -London Office
1560 St Rt 56 SW P.O. Box 365
London, OH 43140
Phone:(740)845-2000

BCI -Richfield Office
4055 Highlander Pkwy. Suite A
Richfield, OH 44286
Phone:(330)659-4600



Analytical findings offered above were determined using accepted forensic drug chemistry methods. Hypergeometric sampling may be specified in the findings above. The application of hypergeometric sampling establishes a ninety-five percent (95) confidence level that at least ninety percent (90) of the units in the sample are as reported.

Based on scientific analyses performed, this report contains opinions and interpretations by the analyst whose signature appears above. Examination documentation and any demonstrative data supporting laboratory conclusions are maintained by BCI and will be made available for review upon request.

A F F I D A V I T

STATE OF OHIO)
)
COUNTY OF MADISON) SS:
)
)

I, Stanton W. Wheasler, being duly sworn state as follows:

I am an Ohio Bureau of Criminal Identification and Investigation (BCI&I) Laboratory employee and performing laboratory analysis is part of my regular duties. My education, training and experience for performing analyses of material are outlined as follows:

EDUCATION

1. Bachelor of Science Degree in Chemistry from The Ohio State University, Columbus, Ohio, awarded June 2007. Coursework in General Chemistry, Organic Chemistry, Analytical Chemistry, Physical Chemistry, Inorganic Chemistry, Forensic Science, Biochemistry, Biology, Physics, and Calculus.

TRAINING

1. Specialized training in the identification of controlled substances from the Ohio Bureau of Criminal Identification and Investigation's Forensic Chemistry Laboratory in London, Ohio.
2. The Drug Enforcement Administration's Forensic Chemist Seminar, offered at the DEA Special Testing and Research Laboratory in Dulles, Virginia
3. Marijuana Identification Course offered by the Ohio Peace Officers Training Academy in London, Ohio.
4. Introduction to Forensic Drug Chemistry Course through West Virginia University Extended Learning.

EXPERIENCE

1. Employed with the Ohio Bureau of Criminal Identification and Investigation since February 1, 2010. Duties include identifying controlled substances.

2. Employed by Boehringer Ingelheim Roxane Incorporated from June 2007 until January 2010. Duties were to identify and determine the purity of raw drug substances prior to their manufacture into human pharmaceutical products.

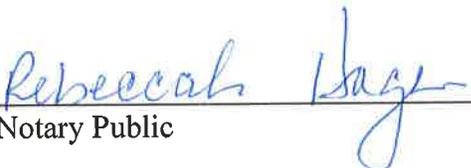
I further attest that in case number 13-11953, scientifically accepted tests were performed with due caution and evidence was handled in accordance with established and accepted procedures while in the custody of BCI&I's laboratory.

FURTHER AFFIANT SAYETH NAUGHT.



Stanton W. Wheasler

Sworn and acknowledged before me on March 15, 2013, in London, Madison County, Ohio.



Notary Public

REBECCA HAGER
Notary Public, State of Ohio
My Commission Expires 5/3/2014

OHIO REVISED CODE 2925.51 (C) & (D)

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