

STATE OF OHIO, COUNTY OF BELMONT  
COURT OF COMMON PLEAS

FILED  
COMMON PLEAS COURT  
BELMONT CO., OHIO

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STATE OF OHIO, *ex rel*,  
MICHAEL DEWINE,  
ATTORNEY GENERAL OF OHIO

CASE NO. 13CV113

PLAINTIFF/RELATOR,

V.

BOB'S CHEAP SMOKES, *et al.*

DEFENDANTS/RESPONDENTS

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**I. FINDINGS OF FACT**

1. Bob's Cheap Smokes and Robert Grimmatt ("Grimmett") have been at all times relevant times, engaged in the business of soliciting, offering, and selling, *inter alia*, synthetic narcotics/illegal drugs to consumers labeled as "incense" and "potpourri."
2. Beginning in March, 2013, the Ohio Bureau of Criminal Identification and Investigation ("BCI & I") and the Belmont County Sheriff's Office conducted investigations into Bob's Cheap Smokes and Grimmatt's sale of synthetic narcotics/illegal drugs as legal products.
3. On March 1 2013, Agent Matt Steinbrook went to Bob's Cheap Smokes, located at 51710 National Road, St. Clairsville, Ohio, 43950, for the purpose of purchasing synthetic narcotics/illegal drugs.
4. Agent Steinbrook approached the front counter and began looking over the inventory.

5. Agent Steinbrook observed a handwritten list of brands, prices, and weights of synthetic drugs that the store sold.
6. John Doe employee pointed out that the “Mad Hatter” was on sale.
7. Agent Steinbrook advised John Doe employee that he would take one 4-gram pack of “Mr. Happy” and one 3-gram pack of “Beast.”
8. John Doe employee then totaled the sale on the cash register and quoted a price for \$47.50 for both packs.
9. Agent Steinbrook purchased a 4-gram packet and a 3-gram packet of “potpourri” from John Doe employee for a total of \$47.50.
10. Although the “Mr. Happy” packet allegedly did not contain prohibited ingredients when tested, the product did contain [1-(5-fluoropentyl)indol-3y)]-(2,2,3,3-tetramethylcyclopropyl)methanone (“XLR11”).
11. XLR11 is a Schedule 1 Controlled Substance (See R.C. 3719.41(C)(41)).
12. Unlike potpourri, the product sold by defendants and represented as potpourri, contained illegal synthetic compounds that, when consumed, mimic the psychoactive and physiological effects of Tetrahydrocannabinol (THC), the active ingredient in cannabis, which is also an illegal Schedule 1 Controlled Substance (See R.C. 3719.41(C)(27)).
13. Bob’s Cheap Smokes and Grimmett sold products labeled as 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.
14. Bob’s Cheap Smokes and Grimmett offered for sale and sold synthetic narcotics/illegal drugs as legal products.

## II. CONCLUSIONS OF LAW

1. The Court has jurisdiction over the subject matter, issues and parties to this Consent Judgment pursuant to R.C. 1354.04, R.C. 3767.03, and R.C. 4729.53.
2. The Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3) in that transactions complained of herein occurred in Belmont County.
3. The Ohio Attorney General is a proper party to commence these proceedings.
4. Defendants committed and participated in the commission of, and/or aided and abetted in the commission of felony violations of R.C.2925.03, Trafficking in Drugs, and are therefore liable for maintaining a public nuisance under R.C.3719.10.
5. Defendants have committed, participated in the commission of, and/or abetted the commission of violation of R.C. 2925.03, a law of the State of Ohio controlling the distribution of a drug of abuse. A violation of any laws of Ohio controlling the distribution of a drug of abuse constitutes a public nuisance under R.C. 4729.35.
6. Violations of R.C. 2925.03 unreasonably interfere with the public right to health, safety, peace, and comfort, thereby creating a public nuisance.
7. Defendants have violated Chapter 2925 of the Revised Code and have therefore maintained a nuisance subject to abatement pursuant to Chapter 3767 of the Revised Code.
8. The Court perpetually enjoins Bob's Cheap Smokes and defendant Grimmatt from further maintaining the nuisances at the place complained of and enjoins defendants from maintaining the nuisance elsewhere; furthermore, defendants shall not sell potpourri or incense henceforth.

9. Upon a finding of a violation of R.C. 2925.03, a court shall order the effectual closing of the place where the nuisance is found to exist against its use for any purpose and keep it closed for a period of one year unless sooner released, pursuant to R.C. 3767.06. The Court hereby orders the closure for one year, the same period to be released upon October 1, 2013.

Judge 