

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA ex rel.
THOMAS J. MILLER,
ATTORNEY GENERAL OF IOWA,
Plaintiff,
v.
WAVERLY DIRECT, INC.,
a New York corporation; and
GORDON F. SHEARER;
Defendants.

EQUITY No. EQCE 080630

CONSENT JUDGMENT

The Court, having been presented by Assistant Attorney General Steve St. Clair with this Consent Judgment, finds and orders as follows:

1. This Consent Judgment, which has been approved by the above-named Defendants, 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 Defendants waive objections relating to service of process of the Petition and Original Notice herein, and to any other requirement that might impede entry and validity of this Consent Judgment, and also agree that any and all post-entry service or notice requirements relating to this Consent Judgment may be fully met through Plaintiff's counsel providing Defendants' counsel with a file-stamped copy of this Consent Judgment.

2. The Court has jurisdiction of the parties and subject matter.

3. 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 Defendants, and each of them, and (as applicable) their directors, officers, principals, partners, employees, representatives, subsidiaries, successors, assigns, parent or controlling entities (hereinafter "Defendants *et al.*"), and all other persons, corporations and

other entities acting in concert or participating with one or more Defendants who have actual or constructive notice of the Court's injunction, are permanently restrained and enjoined from directly or indirectly: (A) participating in direct mail solicitations or other direct mail *advertisements* (as defined at Iowa Code § 714.16(1)(a)) directed to residents of Iowa (or directed to non-Iowans from an Iowa location) that are deceptive, unfair, or otherwise in violation of the Iowa Consumer Fraud Act; and/or (B) selling, renting, sharing, transferring, making available for use by others, or making any use whatsoever of the names and/or other identifying information of persons with Iowa addresses whom the Defendant(s) have reason to believe previously responded to solicitations that would hereafter be prohibited by (A) above.

IT IS FURTHER ORDERED that Defendants pay, at the time of entry of this Consent Judgment or immediately thereafter, the total sum of Twenty Thousand (\$20,000.00) Dollars to the Attorney General. Of that total payment, \$8,750.00 is to be applied by the Attorney General's office in its discretion to making full or partial payments to Iowa consumers of previously unrefunded amounts they paid in response to past solicitations in which one or both Defendants participated which hereafter would be prohibited by (A) above, with the proviso that, to the extent consumers eligible for payments cannot be timely located through reasonable efforts, the money that is not paid to consumers shall be retained by the Attorney General to be used by the Attorney General for the administration and implementation of the CFA and/or the OIA, and shall be deposited into the fund created by Iowa Code § 714.16A; and the remaining \$11,250.00 of which is to be deposited in the above-referenced fund to be used for the above-referenced purposes.

IT IS FURTHER ORDERED that Defendants cooperate with reasonable requests from the Office of the Iowa Attorney General for information or materials regarding the practices to

which the Petition in this cause relates.

IT IS FURTHER ORDERED that the Court retain jurisdiction to enforce this Consent Judgment, and that, in addition to any and all other available remedies, including without limitation contempt of court, a violation of this Consent Judgment constitutes a violation of the CFA for purposes of enforcement by the Attorney General.


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

SO ORDERED.


Approved:

DEFENDANTS:

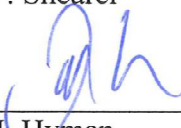
Date: 12/5/16


Waverly Direct, Inc.,
By [printed] Gordon F. Shearer
President

Date: 12/5/16



Gordon F. Shearer

Date: 12/8/16


Jordan M. Hyman
Attorney for Defendants

PLAINTIFF:

Date: 12/12/16


Steve St. Clair
Assistant Attorney General



State of Iowa Courts

Type: ORDER FOR CONSENT DECREE

Case Number **Case Title**
EQCE080630 STATE EX REL ATTY GEN MILLER VS WAVERLY DIRECT INC
ET AL

So Ordered

A handwritten signature in black ink, appearing to read 'Brad McCall'. The signature is written in a cursive style with a horizontal line underneath it.

Brad McCall, District Court Judge,
Fifth Judicial District of Iowa