

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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

v.

NUTRIMOST OF IOWA and
BRADLEY COOK,
Defendants.

EQUITY No. EQCE084296

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 both Defendants and their 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).
2. For purposes of entry of this Consent Judgment, the above-captioned Defendants agree 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 Defendants' counsel.
3. The Court has jurisdiction of the parties and subject matter.
4. The Defendants deny that they, or (as applicable) their agents, owners, officers, directors or employees are legally responsible for any conduct in violation of any statutory or common law and this Consent Judgment is not an admission of liability by those individuals or entities.
5. 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 (as applicable), their directors, officers, principals, partners, employees, agents, servants, representatives, subsidiaries, affiliates, 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 violating the CFA, and, without limiting the foregoing: (A) Defendants shall cease advertising, marketing, sale and distribution of the NutriMost System to Iowa residents and (B) Defendants shall not directly or indirectly in connection with the advertising or sale of any weight-loss or health-related program or product to Iowa residents, make any representation, expressly or by implication, about the efficacy or benefits of the program or product unless competent and reliable scientific evidence substantiates the claim at the time it is made. "Competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based on the

expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

IT IS FURTHER ORDERED that Defendants pay \$50,000 to the Attorney General on the following schedule:

- a. \$43,000 within ten (10) days of the entry of this Consent Judgment; and
- b. \$7,000 six (6) months from the date of entry of this Consent Judgment.

The funds shall be applied by the Attorney General's office in its discretion to making full or partial refunds to Iowa consumers of amounts paid to Defendants for the NutriMost System, with the proviso that, to the extent any of this sum remains after reasonable efforts to effect refunds, the money that is not paid to consumers shall 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 Defendants cooperate with reasonable requests from the Attorney General's office for information relating to the conduct that gave rise to this Consent Judgment, and/or relating to Defendants' compliance with the Consent Judgment. This cooperation requirement shall expire six (6) months from the date of entry of this Consent Judgment or upon full payment of the Judgment amount, whichever is earlier.

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 Defendants 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 Defendants pay court costs, if any.

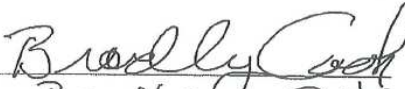
SO ORDERED.

Approved:


Date:
3-8-2019


Bradley Cook

Date:
3-8-19


Name: Bradley Cook
For Nutrimost of Iowa

Date:
5/11/19


Alfred E. Willett
Elderkin & Pirnie, P.L.C.
Counsel for Defendants

Date:
3/21/19


Amy Licht
Assistant Attorney General



State of Iowa Courts

Type: ORDER FOR JUDGMENT

Case Number **Case Title**
EQCE084296 STATE EX REL THOMAS J MILLER VS NUTRIMOST OF IOWA
ET AL

So Ordered

A handwritten signature in black ink, appearing to be 'S. Beattie', written over a horizontal line.

Scott J. Beattie, District Court Judge,
Fifth Judicial District of Iowa