

FILED

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IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

2009 AUG 21 AM 8:30
2009 AUG 31 AM 10:41
RICHARD R. HOOKER, CLERK

STATE OF TENNESSEE, et al.
ROBERT E. COOPER, JR., ATTORNEY
GENERAL and REPORTER,

Plaintiff,

v.

MICHAEL H. SNEED,

Defendant.

Case No. 09C2025

RICHARD R. HOOKER, CLERK
Stamped IN error

[Signature]
D.C.

**ORDER COMPELLING COMPLIANCE WITH THE AGREED ORDER FOR A
STATUTORY TEMPORARY INJUNCTION**

This matter was scheduled to be heard before the Honorable Judge Joseph P. Binkley, Jr. on Friday, August 21, 2009, in connection with plaintiff, State of Tennessee's Motion for an Order to Compel Compliance with the Agreed Order for a Statutory Temporary Injunction ("State's Motion"). However, Defendant Michael H. Sneed failed to file a responsive pleading in compliance with local rules. Therefore, the State's Motion is GRANTED in its entirety.

Upon review and consideration of the pleadings and submissions thereto, **IT IS HEREBY ORDERED ADJUDGED AND DECREED** as follows:

FINDINGS OF FACT AND LAW

1. The State of Tennessee initiated a law enforcement action for violations of the Tennessee Consumer Protection Act and the unauthorized practice of law statutes on June 15, 2009.

2. On June 16, 2009, Michael H. Sneed was served with the State's Complaint.
3. On June 23, 2009, the State filed a Motion for Statutory Temporary Injunction.
4. The State's Motion was schedule to be heard on July 17, 2009.
5. On July 17, 2009, Defendant Michael H. Sneed appeared before the court and agreed to enter into a statutory injunction which required that he refrain from engaging in certain contact and also required that he affirmatively provide certain information to this Honorable Court.
6. An Agreed Order for a Statutory Temporary Injunction ("Agreed Order") was entered by this Court on July 17, 2009.
7. After the State did not receive the financial information required by the Agreed Order from Michael Sneed, the State wrote a letter to the Defendant and reminded him of his obligations to comply with the Court's Order and the need to provide financial records on July 27, 2009.
8. Mr. Sneed did not respond to the State's July 27, 2009 letter.
9. The State filed a Motion for an order to Compel Compliance with the Agreed Order for Statutory Temporary Injunction on August 4, 2009.
10. On August 5, 2009, Mr. Sneed called the State and claimed he would be producing the required information by the end of the week.
11. The State subsequently attempted to contact Mr. Sneed by telephone and electronic mail, but could not reach him again.
12. The Defendant has not provided any financial records as of the hearing on the State's Motion which is more than thirty-five (35) days since the Court ordered him to provide the information.

13. Defendant Michael Sneed filed no responsive pleading to the State's Motion.
14. Pursuant to Tenn. Code Ann. § 47-18-108(c), this Court has the authority to issue a remedial civil penalty of not more than Two Thousand dollars (\$2,000) per violation in addition to any other appropriate sanction for the Defendant's failure to produce financial records in violation of a court injunction order issued pursuant to Tenn. Code Ann. §§ 47-18-108(a)(1) and (a)(4).
15. The Court finds that the Agreed Order issued on July 17, 2009 was issued pursuant to Tenn. Code Ann. §§ 47-18-108(a)(1) and (a)(4).
16. Pursuant to Tenn. Code Ann. § 23-3-103(c)(4), this Court has the authority to issue a remedial civil penalty of not more than Twenty Thousand dollars (\$20,000) for each violation in addition to any other appropriate sanction for the Defendant's failure to produce financial records in violation of a court injunction order issued pursuant to Tenn. Code Ann. § 23-3-103(c)(3).
17. The Court finds that the Agreed Order issued on July 17, 2009 was issued pursuant to Tenn. Code Ann. § 23-3-103(c)(3).
18. The Court finds that each day that the Defendant failed to comply with the Agreed Order constitutes one separate violation of each statute, i.e. Tenn. Code Ann. §§ 47-18-104, *et seq.* and Tenn. Code Ann. §§ 23-3-101, *et seq.*
19. The Court finds that Defendant's failure to comply with the Agreed Order by providing the financial records is a knowing violation of the terms pursuant to §§ 47-18-108(c) and 23-3-103(c)(4) of the Agreed Order in that Defendant agreed to and knew of the obligation yet failed to do as required.

20. The Court concludes that pursuant to Tenn. Code Ann. § 47-18-115, the Tennessee Consumer Protection Act is deemed remedial legislation necessary for the protection of consumers, and is to be liberally construed.
21. The Court has authority to order that the Defendant reimburse the State for reasonable attorneys' fees and costs associated with the State's Motion and the related hearing and order preparation pursuant to § 47-18-108(b)(4) and 23-3-103(c)(1).
22. At this time, the State has incurred reasonable and appropriate attorneys' fees and costs in excess of Six Hundred dollars \$600.00.
23. Further, the Tennessee Consumer Protection Act provides that the Act is to be interpreted and construed consistently with the interpretations given by the Federal Trade Commission. Tenn. Code Ann. § 47-18-115.

COURT ORDERED PRODUCTION OF DOCUMENTS AND INFORMATION

24. Defendant shall produce and deliver the following documents and information in conformity with the terms of the Agreed Order entered July 17, 2009 by the close of business on the fifth business day after the entry of this Order:

As of the hearing on July 17, 2009, an accounting of all assets in Michael H. Sneed's possession or held on his behalf relating to his representation of consumers as clients or when engaging in law business in the State of Tennessee or on behalf of any consumer in the State of Tennessee and a list of all bank accounts and the amounts in those accounts.

The Defendant shall contact the State representatives before producing the documents at the Office of the Tennessee Attorney General, Consumer Advocate and Protection Division at 425 Fifth Avenue North, Nashville, TN 37243. A copy of these financial documents shall also be provided to the Court by no later than the close of business on

the fifth business day after the entry of this Order.

INJUNCTION

25. Pursuant to Tenn. Code Ann. § 47-18-108(a)(4) and § 23-3-103(c)(3), Defendant is prohibited from withholding in whole or in part and/or evading in any manner the production in whole or in part of any documentary material required to be produced by the Court's prior Order dated July 17, 2009 that is in Defendant's possession, custody and control. Said injunction is issued without cost bond pursuant to Tenn. Code Ann. §§ 47-18-108(a)(4) and 23-3-103(c)(3).
26. The original injunction set forth in the Agreed Order dated July 17, 2009 shall remain in full force and effect.

HEARING

27. In order to permit the State of Tennessee to review the information and documents required to be produced by this Order and to report to this Honorable Court on the status of Defendant's compliance with this Order and to determine the appropriate amount of civil penalties and other sanctions or remedies that are needed or warranted, a hearing to examine the Defendant's compliance with the Order is hereby set for **September 4, 2009 at 9:00 a.m. Central Time.**

ATTORNEYS' FEES AND COSTS

28. Pursuant to Tenn. Code Ann. §§ 47-18-108(b)(4) and 23-3-103(c)(1) and in direct advancement of the State's police and regulatory power, civil law enforcement authority, and the purposes of the Tennessee Consumer Protection Act of 1977

identified at Tenn. Code Ann. § 47-18-102, including allowing the State to provide for the protection of consumers and legitimate business enterprises from those who engage in unfair or deceptive acts or practices, the advancement of ethical standards of dealing between persons engaged in business, and the maintenance of the integrity of the marketplace in Tennessee as a whole, attorneys' fees and costs associated with the preparation of the State's Motion and enforcement of the Agreed Order are hereby awarded to the State. The amount of attorneys' fees will be determined by the Court at the September 4, 2009 hearing.

CIVIL PENALTIES FOR FAILURE TO COMPLY WITH INJUNCTIVE ORDER

29. Pursuant to Tenn. Code Ann. §§ 47-18-108(c) and 23-3-103(c)(4), and in direct advancement of the State's police and regulatory power, civil law enforcement authority, and the purposes of the Tennessee Consumer Protection Act identified at Tenn. Code Ann. § 47-18-102, including allowing the State to provide for the protection of consumers and legitimate business enterprises from those who engage in unfair or deceptive acts or practices, the advancement of ethical standards of dealing between persons engaged in business, and the maintenance of the integrity of the marketplace in Tennessee as a whole, the State is hereby awarded a remedial civil penalty lodged against the Defendant for evasion of production and withholding of documentary material in their possession, care and control in violation of a court injunction order issued pursuant to Tenn. Code Ann. §§ 47-18-108(a)(1) and (a)(4). Determination of the amount of such civil penalties will be determined at the September 4, 2009 hearing. In order to compel compliance, the Court recognizes that

the State will advocate for a per diem penalty to be calculated from the date of non-compliance, i.e. July 17, 2009.

PENALTIES FOR FAILURE TO COMPLY

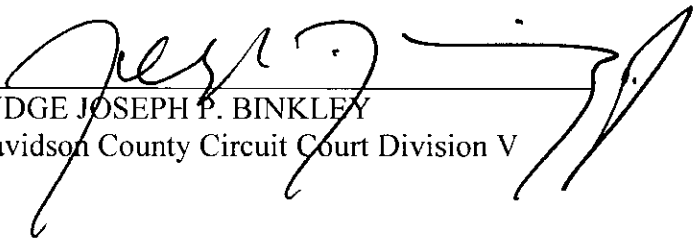
30. Any subsequent failure by the Defendants to comply with the terms of this Order and the prior Agreed Order hereof may be a *prima facie* evidence of a violation of the Tennessee Consumer Protection Act of 1977. Further, Defendants may be subject to additional civil penalties pursuant to the Tennessee Consumer Protection Act and any other sanctions or remedies available at law.
31. Pursuant to the provisions of the Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-108(c), any knowing violation of the terms of this Order shall be punishable by civil penalties of not more than Two Thousand Dollars (\$2,000.00) for each violation, in addition to any other appropriate sanctions including but not limited to contempt sanctions and the imposition of attorneys' fees and civil penalties.
32. Pursuant to the provisions of the Tennessee unauthorized practice of law statutes, Tenn. Code Ann. § 23-3-103(c)(4), any knowing violation of the terms of this Order shall be punishable by civil penalties of not more than Twenty Thousand Dollars (\$20,000.00) for each violation, in addition to any other appropriate sanctions including but not limited to contempt sanctions and the imposition of attorneys' fees and civil penalties.
33. Nothing in this Order prevents, restricts or otherwise limits in anyway, the State from seeking and/or the Court from awarding additional monetary amounts of any sort including civil penalties and attorneys' fees for failure to comply with this Order or

any subsequent failure to comply with the prior Agreed Order or any other order of this Court.

COURT COSTS

34. Defendant is ordered to pay all court costs associated with the Court's Order Compelling Compliance with the Agreed Order for a Statutory Temporary Injunction, the related hearing and entry of any related order and for which execution may issue. Further, no costs shall be taxed against the State as provided by Tenn. Code Ann. § 47-18-116.

IT IS SO ORDERED, ADJUDGED AND DECREED, this ____ day of _____, 2009.



JUDGE JOSEPH P. BINKLEY
Davidson County Circuit Court Division V

RESPECTFULLY SUBMITTED,

ROBERT E. COOPER, JR.
Attorney General and Reporter
B.P.R. No. 10934


ANNE D. SIMMONS


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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Order has been forwarded via U.S. mail, postage prepaid, to:

Michael Sneed
3141 Kinwood Dr.
Antioch, TN 37013-1347

on this the 21 day of August, 2009.


ANNE D. SIMMONS
Assistant Attorney General