

FILED

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
File No. 14 CVS 11087

WAKE COUNTY, C.S.C.

STATE OF NORTH CAROLINA, *ex rel.*)
 ROY COOPER, Attorney General,)
)
 Plaintiff,)
)
 v.)
)
 MOOSER MOTO, LLC and BARRY T.)
 MOOSE, JR., individually and in his corporate)
 capacity,)
)
 Defendants.)
)
)

JUDGMENT BY DEFAULT

PURSUANT TO RULE 55 OF THE NORTH CAROLINA RULES OF CIVIL PROCEDURE, the undersigned Judge presiding over the January 26, 2014 civil session of Wake County Superior Court grants Plaintiff State of North Carolina's, *ex rel.* Roy Cooper, Attorney General, Motion for Judgment by Default against Defendant Barry T. Moose, Jr. and Defendant Mooser Moto, LLC (d/b/a and hereinafter "Riders Wholesale") (collectively hereinafter "Defendants"). In support of this motion, the State respectfully shows the Court:

1. The Court has jurisdiction over the parties and subject matter.
2. On August 19, 2014, the State filed its Complaint in this action alleging that Defendants were operating a business in violation of the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1, *et seq.*
3. On October 1, 2014, pursuant to N.C. Gen. Stat. § 75-14 and N.C. Rule of Civil Procedure 65, Superior Court Judge Howard Manning granted the State's Motion for a Temporary Restraining Order against Defendants enjoining Defendants from, *inter alia*, offering or providing

off-road vehicles or related parts or services. The Temporary Restraining Order was renewed on October 9, 17, and 27 and on November 3, and 10.

4. On November 20, 2014, pursuant to N.C. Gen. Stat. § 75-14 and N.C. Rule of Civil Procedure 65, Superior Court Judge Gregory P. McGuire granted the State's Motion for a Preliminary Injunction against Defendants enjoining Defendants from, *inter alia*, offering or providing off-road vehicles or related parts or services.

5. On November 25, 2014, pursuant to N.C. Gen. Stat. § 75-14 and N.C. Rule of Civil Procedure 55(a), Assistant Wake County Clerk of Court Hope Satterfield granted the State's Motion for Entry of Default against Defendants.

6. Defendants have failed to file an answer to the Complaint filed on August 19, 2014, and thus all of the allegations made by the State in the Complaint are deemed admitted.

7. From the record in this case, the State has made a sufficient showing that Defendants knowingly violated the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1, *et seq.*

8. Defendants have failed to plead or to appear in this action, and are subject to Judgment by Default as provided by Rule 55 of the North Carolina Rules of Civil Procedure.

9. On December 19, 2014, the State filed a Motion for Judgment by Default with this Court, moving that this Judgment by Default be granted, pursuant to Rule 55 of the North Carolina Rules of Civil Procedure.

10. Defendant Barry T. Moose, Jr. (President and Owner of Defendant Riders Wholesale) is not an infant, or incompetent person, or otherwise under a disability.

11. Defendants are liable to the State for the relief requested by reason of the facts shown in the Complaint filed in this action.

BASED ON THE FOREGOING AND THE RECORD HEREIN, this Court concludes that good and sufficient cause exists for entry of this Judgment by Default, pursuant to N.C. Gen. Stat. § 75-1.1, *et seq.* and N.C. Rule of Civil Procedure 55(b).

IT IS THEREFORE ORDERED that Defendants, their agents, employees, and corporate successors or assigns, and any persons acting in concert with them are hereby permanently enjoined from:

- (a) Advertising, offering, or entering into contracts to deliver equipment or perform other related services;
- (b) Soliciting or accepting deposits or payments from consumers for any product or service;
- (c) Collecting any further payment, directly or indirectly, from consumers related to the aforementioned business;
- (d) Destroying, transferring, concealing, altering, or removing from their possession or control any financial records, customer contracts, emails, or other correspondence, business records and other documents of Defendants; and
- (e) Transferring, withdrawing, concealing, or encumbering any assets of Defendants pending further order of the Court.

IT IS FURTHER ORDERED that Plaintiff State of North Carolina, pursuant to N.C. Gen. Stat. § 75-15.1, *et seq.*, shall have and recover from Defendants the following:

- (f) Consumer restitution in the amount of \$438, 022.06 (*See Attachment A*);
- (g) Restoration of all consumer property held by Defendants; and
- (h) Cancellation of all consumer contracts made by Defendants.

IT IS FURTHER ORDERED that Plaintiff State of North Carolina, pursuant to N.C.

Gen. Stat. § 75-8 and § 75-15.2, shall have and recover from Defendants a civil penalty of five thousand dollars (\$5,000) for each violation of the Unfair and Deceptive Trade Practices Act, and that each victim be deemed a separate violation, totaling the amount of \$435,000.

SO ORDERED, this the 20th day of January, 2015.



SUPERIOR COURT JUDGE

[Type text]

Attachment A

LAST NAME	FIRST NAME	AMOUNT LOST
HAWKINS	BILLYE	\$376.00
BROWN	BOBBY	\$8,650.00
DIGBY	EMILIE	\$8,700.00
	CHARLES (DECEASED) &	
ATKINSON	DEWANA	\$7,270.00
ARMSTRONG	GARY	\$6,411.00
BOURNE	MIRANDA	\$635.00
HAMBY	FRANK	\$35.00
JOHNSON	JOHN A	\$6,500.00
MARTIN	HOWARD	\$6,850.00
NEWBY	JANET	\$99.95
POLAK	DELMAR	\$535.00
SABO	DAVID	\$200.00
SANDOVAL	MAYRA	\$549.00
SINGLETARY	DAVID	\$80.00
SLINGLUFF	MATTHEW	\$460.00
STREETS	DAVID	\$7,500.00
BRIDGMAN	JAMES M	\$6,147.15
BROWN	JEFFREY A.	\$13,250.00
BRUCE	DOUGLAS	\$200.00
FRESHOUR	JAMES	\$225.00
PILON	NATHALIE	\$1,223.99
ROBERTSON	BRENDA	\$699.00
STEVENS	LORE	\$2,520.00
TOMAK	ROBERT	\$2,199.00
BENTON	SARA J.	\$890.71
PRIBANIC	JOHN	\$1,899.00
GLORIOSO	VINCENT J.	\$625.00
MAKOSCH	CORY	\$930.02
WASHINGTON	ISIS	\$1,001.50
SHEPHERD	DONNIE	\$863.99
HUFF	JAMES	\$5,930.25
	BENJ &	
SMITH	ELIZABETH	\$7,310.25
LANGOWSKI	VERNON	\$4,075.25

LAST NAME	FIRST NAME	AMOUNT LOST
MOWERY	THOMAS	\$5,310.25
MCINTOSH	WILLIAM & JANICE	\$5,524.15
ALLEN	JAMES	
SCHWARTZER	DOUGLAS	\$6,400.00
TAYLOR	KEVIN	\$5,695.00
COOPER	LEWIS	\$2,436.25
THOMPSON	CHERYL & DOUG	\$50.00
PAYNE, JR	JOHN	\$6,950.00
GENSLER	ROBERT	\$5,895.00
CLEVENGER	EDWARD	\$5,875.00
APPLEWHITE	CHARLES	\$7,570.00
JOHNSON	HAROLD	\$5,400.00
CORNELL	LOUIS LEE	\$7,000.00
SHINAULT	DANIEL	\$5,600.00
BANKSTON	ELMER	\$7,850.00
COCKERHAM	BRUCE	\$6,895.00
GREEN	RONALD L.	\$6,995.00
MEYER	DEAN	\$5,795.00
MARTIN	RICHARD	\$500.00
YAKLIN	HAROLD	\$7,350.00
HATCH	MARK	\$7,400.00
COULSON	WILLIAM	\$5,795.00
BRADLEY	RANDY	\$7,300.00
WHITSELL	ELAINE	\$7,956.25
FARMER	KENDALL	\$5,995.00
PAYNE	SCOTT A	\$5,995.00
SMITH	JASON	\$5,800.00
BLANTON	BRIAN	\$7,430.00
CROOK	DARYL	\$7,760.00
DAVIDSON	JEFFREY	\$5,100.00
PARSONS	GUY	\$7,200.00
ROWAN	ANDREW	\$7,250.00
MEDEIROS	ROBERT & KRISTY	\$7,850.00
MITCHELL	PAUL	\$7,175.00
	MICHAEL R	\$8,040.00

LAST NAME	FIRST NAME	AMOUNT LOST
WHITE	BRITAIN	\$7,750.00
AUSTIN	JOHN	\$7,400.00
MINATRE	GERALD	\$5,600.00
WAINRIGHT	DENISE	\$5,625.00
LEVESQUE	CLARENCE	\$7,334.00
HEMBACH	WAYNE	\$7,400.00
FOWLER	MILTON	\$7,100.00
FICKLIN	DENNIS	\$6,730.00
STEINER	CHRISTOPHER	\$3,375.10
O'NEAL	JOE	\$6,100.00
DAVIDSON	ROBERT	\$6,695.00
VANICOR	KATIE	\$7,950.00
PAPANDREA	DANIEL	\$6,750.00
MARLOW	LARRY	\$7,695.00
MUELLER	KENNETH C.	\$7,095.00
MCFALL	DAVID	\$6,770.00
BRUEGGEMAN	TAMMY	\$200.00
STANDERFER	RODNEY	\$100.00
WING	GEORGE	\$7,975.00
SMITH	CHARLES	\$8,400.00
		\$438,022.06