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FILED

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CATHERINE M. LANGLOIS, P.J. CH.
JUDGE'S CHAMBERS
MORRIS COUNTY COURT

COPY

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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION,
MORRIS COUNTY
DOCKET NO: MRS-C-7-08

ANNE MILGRAM, Attorney General of the State
of New Jersey, and DAVID M. SZUCHMAN,
Director of the New Jersey Division of Consumer
Affairs,

Plaintiffs,

v.

CELEBRATION STUDIOS, INC., MARC S.
SCHWARTZ, JANE and JOHN DOES 1-10,
individually and as owners, officers, directors,
shareholders, founders, managers, agents,
servants, employees, representatives and/or
independent contractors of CELEBRATION
STUDIOS, INC. and MARC S. SCHWARTZ, and
XYZ CORPORATIONS 1-10,

Defendants.

Civil Action

**FINAL JUDGMENT BY
DEFAULT AND ORDER**

THIS MATTER was opened to the Court on the application of Anne Milgram, Attorney
General of the State of New Jersey ("Attorney General"), and David M. Szuchman, Director of the

New Jersey Division of Consumer Affairs¹ (collectively, "Plaintiffs") (by Lorraine K. Rak, Deputy Attorney General, appearing), by way of a Verified Complaint, Certification of Joseph J. Palaia, with accompanying exhibits ("Palaia Certification"), Certification of Lorraine K. Rak, with accompanying exhibits ("Rak Certification"), and Memorandum of Law, alleging that defendants Celebration Studios, Inc. ("Celebration Studios") and Marc S. Schwartz ("Schwartz") (collectively, "Defendants") have, directly or through others, engaged in conduct in violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), and the Regulations Governing General Advertising, N.J.A.C. 13:45A-9.1 et seq. ("Advertising Regulations"),

On January 18, 2008, Plaintiffs commenced this action upon the filing of an Order to Show Cause with Temporary Restraints, Verified Complaint, supporting Certifications and Memorandum of Law. On January 23, 2008, service of the papers were effected upon Defendants. By Order Granting Impound and Distribution of Merchandise, dated and filed November 5, 2008 ("November 5 Order"), the Court, among other things, directed that Plaintiffs proceed to entry of default as to Defendants. On February 17, 2009 and at Plaintiffs' request, the Clerk of the Court entered default as to Defendants for failure to answer or otherwise defend.

To date, Defendants have not answered or otherwise defended this action, or moved to vacate the entry of default.

THIS COURT NOW FINDS THAT:

A. The Court has jurisdiction over the subject matter of this action and over the named and served Defendants hereto.

¹ This action was commenced on behalf of the Attorney General and Lawrence DeMarzo, former Acting Director of the New Jersey Division of Consumer Affairs ("Division"). Pursuant to R. 4:34-4, the caption has been revised to reflect the current Director of the Division.

B. Based upon all of the evidence submitted by Plaintiffs, including the Palaia Certification and Rak Certification, Defendants have engaged in conduct which comprises 1821 separate violations of the CFA, N.J.S.A. 56:8-1 et seq., and 3 separate violations of the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq.

THEREFORE, IT IS on this 17 day of July, 2009,

1. **ORDERED** that the acts and omissions of Defendants constitute multiple instances of unlawful practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., and the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq.

2. **IT IS FURTHER ORDERED** that Defendants and their owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, assigns and all other persons or entities directly under their control or under common control with them and all other persons or entities in active concert or participation with them are permanently enjoined from engaging in, continuing to engage in, or doing any acts or practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., and the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq., including, but not limited to, the acts and practices alleged in the Verified Complaint.

3. **IT IS FURTHER ORDERED** that Defendant Schwartz is personally liable for the violations of CFA, N.J.S.A. 56:8-1 et seq., and the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq., committed by Celebration Studios, including, but not limited to, the acts and practices alleged in the Verified Complaint.

4. **IT IS FURTHER ORDERED** that Defendant Schwartz is permanently enjoined from owning and/or operating any business or other entity in the State of New Jersey ("State" or

"New Jersey") through which merchandise is advertised and sold to consumers, unless he posts a bond in favor of Plaintiffs in the amount of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) or ten percent (10%) of his prior business year's gross income, whichever is greater. The bond shall be posted to secure any payments to be made by Schwartz including, but not limited to, recovery under the CFA and/or Advertising Regulations. Schwartz shall maintain the bond until such time as he no longer operates such business or entity.

5. **IT IS FURTHER ORDERED** that Defendants, jointly and severally, shall pay to the Division consumer restitution in the total amount of \$ 855,618.³⁴, as authorized by N.J.S.A. 56:8-8. The funds paid by Defendants pursuant to this section of the Final Judgment by Default and Order ("Judgment and Order") shall be used for equitable relief including, but not limited to, consumer redress and any attendant expenses for the administration of any redress fund. If Plaintiffs determine, in their sole discretion, that redress to consumers is wholly or partially impracticable, any funds not so used shall be retained by the Division in lieu of redress. Defendants shall have no right to contest the manner of distribution chosen by Plaintiffs. Plaintiffs in their sole discretion may use a designated agent to administer consumer redress.

6. **IT IS FURTHER ORDERED** that Defendants, jointly and severally, shall pay to the Division civil penalties in the total amount of \$ 1,821,000.⁰⁰, in accordance with N.J.S.A. 56:8-13. *In addition, \$15,000 under Advertising Regulations (3).*

7. **IT IS FURTHER ORDERED** that Defendants, jointly and severally, shall reimburse Plaintiffs for all attorneys' fees incurred in the prosecution of this action, in the total amount of \$ 139,345.⁵⁰, for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19.

8. **IT IS FURTHER ORDERED** that Defendants, jointly and severally, shall reimburse Plaintiffs for their investigative costs and fees, in the total amount of \$ 244,339.⁰⁰, for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19.

9. **IT IS FURTHER ORDERED** that all of Defendants' right, title and interest, including copyrights, to all merchandise which had been impounded pursuant to the Order, dated and filed January 25, 2008 ("January 25 Order") as well as the November 5 Order, including photographs, negatives, proofs, digital files, videotapes, DVDs, servers, external hard drives, flash drives, backup tapes, albums and thank you cards, is transferred to the Division. The Division shall not be liable for any of the obligations or liabilities of Defendants of any kind or nature relating to the merchandise.

10. **IT IS FURTHER ORDERED** that the Division shall be permitted to arrange for the destruction of all merchandise which remains unclaimed within 180 days of the entry of this Judgment and Order, but only after public notice by publication for 14 consecutive days in The Star Ledger and by posting for 90 consecutive days on the Division's website (www.njconsumeraffairs.gov). Such notices shall be posted within 21 days after entry of this Judgment and Order.

11. **IT IS FURTHER ORDERED** that the Division shall be permitted to arrange for the destruction of all merchandise forwarded by Capri Album Company, Inc. ("Capri Album") and Albums Unlimited to the Division which remains unclaimed within 180 days of the entry of this Judgment and Order, but only after public notice by publication for 14 consecutive days in The Star Ledger and by posting for 90 consecutive days on the Division's website

(www.njconsumeraffairs.gov). Such notices shall be posted within 21 days after entry of this Judgment and Order.

12. **IT IS FURTHER ORDERED** that the Division shall be permitted to arrange for the destruction of all books and records and other materials impounded by the Division pursuant to the January 25 Order within _____ days of the entry of this Judgment and Order.


13. **IT IS FURTHER ORDERED** that the Division shall provide any consumers and photographers and/or videographers who are still in possession of the consumers' merchandise with the opportunity to resolve their disputes through the Alternative Dispute Resolution ("ADR") Unit of the Division, upon the agreement of both parties. *(AND So notice on Website...)*

14. **IT IS FURTHER ORDERED** that nothing contained in this Judgment and Order, including the Court's determinations herein, shall bind or affect the rights of any persons not a party hereto, or preclude actions against any unnamed parties.

15. **IT IS FURTHER ORDERED** that nothing contained in this Judgment and Order shall bind or affect any position which any party may take in future or unrelated actions.

16. **IT IS FURTHER ORDERED** that this Judgment and Order may be enforced only by Plaintiffs or Defendants or their successors hereto.

17. **IT IS FURTHER ORDERED** that this Court retains jurisdiction for the purpose of enabling Plaintiffs or Defendants to apply to this Court for any such further orders and directions as may be necessary and appropriate for the enforcement of, or compliance with, this Judgment and Order.


HON. CATHERINE M. LANGLOIS, P.J.Ch.