

IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT IN AND FOR BROWARD
COUNTY, FLORIDA

OFFICE OF THE ATTORNEY GENERAL,
STATE OF FLORIDA, DEPARTMENT OF
LEGAL AFFAIRS,

Plaintiff,

-vs-

CASE NO.

LUXURY RETAIL SAWGRASS, LLC d/b/a
SUNGLASS OASIS, *an active State of Florida*
For-Profit Corporation,

SAMUEL FLORENS, *an individual,*

Defendants.

COMPLAINT

Plaintiff, Office of the Attorney General, State of Florida, Department of Legal Affairs (“Attorney General”), brings this action under Florida’s Deceptive and Unfair Trade Practice Act, Chapter 501, Part II, Florida Statutes (“FDUTPA”), against LUXURY RETAIL SAWGRASS, LLC d/b/a SUNGLASS OASIS, *an active State of Florida for-Profit Corporation,* and SAMUEL FLORENS, *an individual* (collectively, “Defendants”), to obtain permanent injunctive relief and other statutory and equitable relief, and further states:

I. JURISDICTION AND VENUE

1. This action is brought to obtain permanent injunctive relief, pursuant to Section 501.207(1)(b), Florida Statutes; civil penalties pursuant to Sections 501.2075 and 501.2077, Florida Statutes; equitable relief pursuant to Section 501.207(3), Florida Statutes, including

consumer restitution; and other just and appropriate relief under FDUTPA. This Court has jurisdiction pursuant to FDUTPA and Section 26.012, Florida Statutes.

2. Defendants at all times material to this Complaint, whether acting alone or in concert with others, solicited consumers within the definition of Section 501.203(7), Florida Statutes, and engaged in trade or commerce as defined by Section 501.203(8), Florida Statutes.

3. Venue is proper in the Seventeenth Judicial Circuit as Defendants, during the pertinent period alleged in this Complaint, maintained a place of business in Sunrise, Broward County, Florida. Further, the statutory violations alleged herein affected, or occurred in, more than one judicial circuit in the State of Florida, and elsewhere throughout the United States.

II. PLAINTIFF

4. The Attorney General is an enforcing authority of FDUTPA and is authorized by Section 501.207(1)(b), Florida Statutes, to bring an action to enjoin any person who has violated, is violating, or is otherwise likely to violate FDUTPA, and by Section 501.207(3), Florida Statutes, to obtain equitable relief, as appropriate.

5. The State of Florida has conducted an investigation, and the Attorney General has determined that an enforcement action serves the public interest, as required by Section 501.207(2), Florida Statutes.

III. DEFENDANTS

6. Defendant, LUXURY RETAIL SAWGRASS, LLC d/b/a SUNGLASS OASIS (“SUNGLASS OASIS”), is an active State of Florida For-Profit Corporation, established on or around August 13, 2009, with its principal place of business located at 1800 Sawgrass Circle, #K102, Sunrise, Broward County, Florida 33323.

7. SUNGLASS OASIS offers designer eyewear to consumers in Florida and elsewhere throughout the United States.

8. Defendant, Samuel Florens (FLORENS), currently resides at 11192 N.W. 68th Place, Parkland, FL 33076. Florens is not in the military and is otherwise *sui juris*.

IV. DEFENDANTS' MISLEADING AND DECEPTIVE BUSINESS PRACTICES

9. Beginning in at least 2017, the Attorney General began receiving complaints from consumers in Florida, and elsewhere throughout the United States, that Defendants were engaging in deceptive trade practices as it relates to Defendants' online sales of designer eyewear, which includes both sunglasses and frames for prescription lenses.

10. SUNGLASS OASIS offers designer eyewear to consumers both in person at its retail store and online through its website.

11. Over one hundred consumers who ordered eyewear from Defendants via their online store have complained that they did not receive the ordered eyewear after making payment.

12. When consumers contact Defendants to find out the status of their online eyewear purchase or to seek a refund, Defendants typically cease all communications with them.

13. In some instances where the eyewear is actually shipped, consumers often receive different eyewear from Defendants than they had purchased. When these consumers contact Defendants to rectify the error, Defendants in many instances promise consumers replacement eyewear or refunds. However, Defendants, in many instances, either fail to replace the incorrect eyewear or issue the promised refund. When the consumers again try to contact Defendants regarding resolution of their complaints, Defendants fail to respond to the consumers' multiple phone calls and emails, send automatic replies which are not followed through, and at some point cease all communications with the consumers.

14. Additionally, many consumers have filed complaints with various consumer protection agencies in an effort to resolve their claims against Defendants; however, Defendants at some point stopped responding to or even acknowledging receipt of those agencies' communications. Most of the consumer complaints are forwarded to Defendant, FLORENS, to address and to resolve.

15. After being made aware of the large volume of consumer complaints lodged against SUNGLASS OASIS, Defendants shut down their original website and opened a new website, knowingly continuing the same deceptive and unfair business practices.

16. Despite being fully aware of complaints from consumers, and not taking any steps to resolve the complaints or reform their business practices, Defendants have knowingly and willfully continued the same practice of marketing and selling their designer eyewear online and accepting upfront payments from consumers with knowledge that in many instances the consumers' orders will not be fulfilled as promised.

17. Defendant, FLORENS, manages the day-to-day operations of SUNGLASS OASIS, and at all times material to this Complaint, whether acting alone, or in concert with others, formulates, directs, controls, has the authority to control, and directly participates in the acts and practices of SUNGLASS OASIS.

18. Defendant, FLORENS, is listed as the Registered Agent and Manager of SUNGLASS OASIS on corporate filings and has been observed managing and conducting eyewear sales at SUNGLASS OASIS' in-store location.

19. Defendant, FLORENS, is additionally an authorized signatory on the bank account used to operate SUNGLASS OASIS, and as an authorized signatory has signed checks on behalf

of SUNGLASS OASIS for payroll, monthly lease payments, invoices, consumer refunds, and large inventory purchases.

20. Defendants, at all times material to this Complaint, knew, or should have known, that the acts and practices of SUNGLASS OASIS as alleged herein are unfair or deceptive or prohibited by rule.

21. Defendants' deceptive actions and misrepresentations are likely to mislead consumers acting reasonably under the circumstances and in fact have misled consumers in the State of Florida and elsewhere throughout the United States.

22. As the result of Defendants' deceptive actions and misrepresentations, consumers have suffered injury.

23. Unless Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, that is, the online sale of designer eyewear, the continued activities of Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.

COUNT I
VIOLATION OF FLORIDA'S DECEPTIVE AND
UNFAIR TRADE PRACTICES ACT

24. Plaintiff adopts, incorporates herein and re-alleges Paragraphs 1-23 above as if fully set forth herein.

25. Section 501.204, Florida Statutes, prohibits unfair methods of competition or unconscionable, deceptive, or unfair acts or practices in the conduct of trade or commerce.

26. When construing whether acts or practices violate FDUTPA, it is the intent of the Legislature that "due consideration and great weight shall be given to the interpretations [by] the

Federal Trade Commission and the federal courts relating to the ... Federal Trade Commission Act.” Section 501.204(2), Florida Statutes.

27. Additionally, all FDUTPA provisions are to be “construed liberally” to promote the protection of the “consuming public and legitimate business enterprises from those who engage in ... deceptive, or unfair acts or practices in the conduct of any trade or commerce” and “to make state consumer protection and enforcement consistent with established policies of federal law relating to consumer protection.” Section 501.202, Fla. Stat.

28. A FDUTPA violation may be based upon any of the following:

(a) Any rules promulgated pursuant to the Federal Trade Commission Act, 15 U.S.C. ss. 41 et seq.;

(b) The standards of unfairness and deception set forth and interpreted by the Federal Trade Commission or the federal courts; or

(c) Any law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices.” § 501.203(3), Fla. Stat.

29. Once a corporation’s liability for violations of FDUTPA is established, individual defendants may be liable for (1) injunctive relief for the corporate defendants’ practices if the individual defendants participated directly in the practices or acts or had authority to control them, and (2) monetary relief if the individual had actual or constructive knowledge of the practices.

30. As more fully detailed above in paragraphs 1 through 23, Defendants have engaged in a pattern of deceptive and unfair acts and practices as it relates to the online sale of designer eyewear.

31. Defendants’ deceptive actions and misrepresentations are likely to mislead consumers acting reasonably under the circumstances and in fact have misled consumers in the State of Florida and elsewhere throughout the United States.

32. Defendant, FLORENS, formulates, directs, controls, has the authority to control, and directly participates in the acts and practices of SUNGLASS OASIS, and knew, or should have known, that the acts and practices of SUNGLASS OASIS alleged herein are unfair or deceptive or prohibited by rule. Accordingly, Defendant, FLORENS, is individually liable for SUNGLASS OASIS' FDUTPA violations. Therefore, Defendant, FLORENS, is subject to the equitable, legal or other relief, as well as the civil penalties and fees and costs, provided for by FDUTPA.

33. Defendants have violated FDUTPA, and the above-described acts and practices of Defendants have injured and prejudiced the public and consumers in the State of Florida and elsewhere throughout the United States.

34. Unless Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, Defendants' continued deceptive and unfair business practices will result in irreparable injury to the public and consumers in the State of Florida for which there is no adequate remedy at law.

35. Sections 501.207, 501.2075, and 501.2077, Florida Statutes, authorize this Court to grant such relief as this Court finds appropriate.

36. Pursuant to Section 501.207(3), Florida Statutes, this Court is authorized in an action brought by the enforcing authority under Section 501.207(1)(b), Florida Statutes, to enter an order that the Defendants provide restitution and other equitable relief.

37. Defendants have committed one or more willful violations of Section 501.204, Florida Statutes, and pursuant to Section 501.2075, Florida Statutes, this Court is also authorized to impose a civil penalty upon the Defendants of up to \$10,000 for each willful violation of FDUTPA by Defendants.

38. Defendants have committed one or more willful violations of Section 501.204, Florida Statutes, and pursuant to Section 501.2077, Florida Statutes, this Court is authorized to impose a civil penalty upon the Defendants of up to \$15,000 for each willful violation of FDUTPA that victimizes a senior citizen or handicapped person as defined in that Section.

39. The Attorney General has incurred reasonable attorney's fees and costs and is entitled to have those fees and costs reimbursed by Defendants pursuant to Sections 501.2075 and 501.2105, Florida Statutes.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the Attorney General, pursuant to FDUTPA, requests that this Honorable Court enter Judgment against Defendants, jointly and severally, to:

- A. Permanently ENJOIN Defendants and their officers, affiliates, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this injunction, from engaging in any activity which relates in any manner to the online marketing, sale, offering, providing, or accepting of payments for eyewear to consumers; and from committing future violations of FDUTPA by making false or misleading representations to consumers in the conduct of any trade or commerce.
- B. Award such relief as the Court finds appropriate, pursuant to Section 501.207, Florida Statutes; and such equitable or other relief as is just and appropriate pursuant to Section 501.207(3), Florida Statutes;
- C. Assess civil penalties in the amount of Ten Thousand Dollars (\$10,000.00) as prescribed by Section 501.2075, Florida Statutes, or Fifteen Thousand Dollars (\$15,000.00) for victimized senior citizens as prescribed by Section 501.2077, Florida

Statutes, for each act or practice found to be in violation of Chapter 501, Part II, of the Florida Statutes;

D. Award attorney's fees and costs pursuant to Section 501.2105, Florida Statutes, or as otherwise authorized by law; and.

E. GRANT such other relief as this Court deems just and proper.

Dated this 16th day of October, 2018.

Respectfully Submitted,

PAMELA JO BONDI
ATTORNEY GENERAL

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