

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.)
DOUGLAS J. PETERSON, ATTORNEY)
GENERAL,)
)
Plaintiff,)
)
v.)
)
TICKETS IN TIME, LLC, a Nebraska)
limited liability company; SECURE)
TICKET PURCHASE, LLC, a Nebraska)
limited liability company, doing business)
as BOX OFFICE TICKET SALES;)
JOHN C. UHRICH, an individual; and)
HOWARD C. SCHWARTZ, an)
individual,)
)
Defendants.)

CI 16 - 3039

AGREEMENT TO ENTRY OF FINAL CONSENT JUDGMENT

AND NOW, comes the Plaintiff, the State of Nebraska by and through Douglas J. Peterson, the Attorney General, and the undersigned Assistant Attorney General, having filed a Complaint against Defendants Tickets in Time, LLC, Secure Ticket Purchase, LLC, doing business as Box Office Ticket Sales, John C. Uhrich, and Howard C. Schwartz requesting a permanent injunction and other relief in this matter pursuant to the Nebraska Consumer Protection Act, Neb. Rev. Stat. § 59-1601 et seq. ("Consumer Protection Act") and the Uniform Deceptive Trade Practices Act, Neb. Rev. Stat. § 87-301 et seq.

("Uniform Deceptive Trade Practices Act") alleging the Defendants committed violations of the aforementioned Acts.

Plaintiff and Defendants Tickets in Time, LLC, Defendant Secure Ticket Purchase, LLC, doing business as Box Office Ticket Sales, and Defendant John C. Uhrich ("Defendants") have agreed to the Court's entry of this Agreement to Entry of Final Consent Judgment ("Agreement") without trial or adjudication of any issue of fact or law or finding of wrongdoing or liability of any kind, and that Defendants do not admit any violation of law or any wrongdoing. This Agreement is for settlement purposes only, and it is the intent of the Parties that, to the fullest extent permitted by law, neither the fact of, nor any provision contained in, this Agreement, nor any action taken hereunder, shall constitute, be construed as, or be admissible in evidence as any admission of the validity of any claim or any fact alleged in any other pending or subsequently filed action or of any wrongdoing, fault, violation of law, or liability of any claim, allegation, or defense asserted in any other action. Nothing in this Agreement shall be construed to affect Defendants' right to take legal or factual positions in defense of litigation or other legal proceedings to which the State of Nebraska is not a party.

A Motion to Dismiss Defendant Howard C. Schwartz is being filed contemporaneous with this Agreement as part of the resolution of this matter.

PARTIES

1. **Defendants:** Tickets in Time, LLC (Tickets in Time) is a limited liability company organized under the laws of the State of Nebraska that is currently listed as inactive with the Nebraska Secretary of State with a principal office address listed as 2424

S 130 Ct., Omaha, Nebraska, 68144. Tickets in Time conducted business in Nebraska and throughout the United States and Canada through the end of March 2013.

2. Secure Ticket Purchase, LLC, doing business as Box Office Ticket Sales (Secure Ticket Purchase), is a limited liability company organized under the laws of the State of Nebraska. On or about August 6, 2013, Secure Ticket Purchase began conducting business in Nebraska and throughout the United States and Canada. The current corporate address for Secure Ticket Purchase is 2424 S. 130th Court, Omaha, Nebraska, 68144.

3. John C. Uhrich is the past owner, president, and Chief Executive Officer of Tickets in Time. Uhrich is the current owner, president, and Chief Executive Officer of Secure Ticket Purchase.

4. For purposes of this Agreement, Defendants mean Tickets in Time, LLC, Secure Ticket Purchase, LLC, doing business as Box Office Ticket Sales, and John C. Uhrich, doing business under their personal or corporate names, under any other business name, and their owners, principals, directors, officers, agents, representatives, salespersons, employees, instructors, independent contractors, affiliates, successors, transferees, assignees, and all persons acting in concert or in participation with Defendants, directly or indirectly, through any corporate device, partnership, association, or other business entity within the State of Nebraska.

5. **Plaintiff:** Douglas J. Peterson is the duly elected, qualified, and acting Attorney General of the State of Nebraska. The Nebraska Attorney General is charged with, among other things, enforcement of the Consumer Protection Act and the Uniform Deceptive Trade Practices Act.

6. **Parties:** Plaintiff and Defendants shall be collectively referred to as "the Parties" throughout this Agreement.

AUTHORITY, VENUE, JURISDICTION, AND CHOICE OF LAW

7. The Parties hereby agree that venue regarding the interpretation or enforcement of this Agreement is before the District Court of Lancaster County, Nebraska ("Court"), pursuant to the Consumer Protection Act and the Uniform Deceptive Trade Practices Act. The Parties further agree that the Court has subject matter jurisdiction over the matter, that they are submitting to the personal jurisdiction of the Court, that the Court retains jurisdiction regarding the interpretation and enforcement of this Agreement, and that the laws of the State of Nebraska control and apply to the interpretation and enforcement of this Agreement.

DEFINITIONS

8. "Speculative Sale" shall mean a sale for one or more tickets that are not yet in the possession or inventory of Defendants or its third-party ticket sources at the time of sale and will be acquired at a later time. This definition does not include sales for tickets that Defendants or its secondary market ticket sources have ownership of or a contractual right to obtain but are not yet in the possession or inventory of Defendants or its secondary market ticket sources.

9. "Zone Ticket" shall mean a ticket that is for a specified area or section of a venue, stadium, or arena, and not for a specific seat.

INJUNCTIVE RELIEF

10. Defendants shall not engage in any unfair, unconscionable, or deceptive act or practice in violation of the Consumer Protection Act, the Uniform Deceptive Trade Practices Act, or any other applicable law within the State of Nebraska.

11. Defendants shall not engage in any deceptive or misleading conduct during telephone calls with consumers. Further, Defendants shall institute a formal training program which instructs all employees as to the proper conduct during telephone calls with consumers. The following are acts and practices in which Defendants shall not engage when conducting a telephone sale to a consumer:

- a. Making any statement, during a Speculative Sale, indicating that Secure Ticket Purchase has the tickets requested by the consumer, including statements such as "we have" or "I have" when referencing tickets. Defendants may state that they have access to an inventory, including using statements such as "there is/are" when referencing tickets;
- b. Making any inaccurate, uninformed, or misleading statement related to amenities near or around the event venue;
- c. Making any inaccurate, uninformed, or misleading statement related to the availability of tickets in the marketplace;
- d. Making any inaccurate or misleading statement related to whether Secure Ticket Purchase has any type of relationship with the actual event venue;

- e. Declining to answer or avoiding consumer questions, related to whether Secure Ticket Purchase has any type of relationship with the actual event venue; and
- f. Affirmatively answering that Secure Ticket Purchase is the actual event venue box office or has a business relationship with the event venue box office, unless such statements are truthful and not misleading.

12. Defendants shall make the following disclosure whenever knowingly making a Speculative Sale over the phone:

“The tickets you are ordering are not yet on public sale. Box Office Ticket Sales is a service that provides guaranteed tickets that we will procure for you on or before [date] and deliver by [date].”

If the ticket is a Zone Ticket, Defendants shall provide the following disclosure:

“The ticket you are purchasing is not for a specific seat, but for a particular area of the venue.”

These disclosures shall be given to the consumer prior to asking the consumer to provide payment information.

13. Defendants shall provide the following disclosure to a consumer:

“Secure Ticket Purchase/Box Office Ticket Sales is a ticket resale service. We are not the box office of any venue, stadium, or arena. Tickets may be sold above face value.”

This disclosure shall be provided prior to the salesperson engaging in dialogue with the consumer when the consumer is calling a number listed in Defendants' advertisements that has an area code outside of Nebraska or any other state where Defendants have a sales call center.

COMPLIANCE MONITORING

14. For matters concerning this Agreement, the Plaintiff, Assistant Attorneys General, and staff of the Nebraska Attorney General's Office are authorized to communicate directly with each Defendant. Defendants must permit the Plaintiff's representatives to interview any employee or other person affiliated with any Defendant who has agreed to such an interview on any matter regarding any conduct subject to this Agreement. The person interviewed may have counsel present, including counsel for the Defendants.

15. Defendants shall generate, retain, and make readily available to Plaintiff for inspection, upon reasonable notice and without the necessity of a subpoena, civil investigative demand, or other legal process, all material records and documents reasonably necessary to document compliance with this Agreement.

16. The Plaintiff, Assistant Attorneys General, and all staff of the Nebraska Attorney General's Office may monitor Defendants' compliance with this Agreement through any means, which shall include but not be limited to, conducting undercover purchases and posing as consumers seeking to purchase event tickets from Defendants or from any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Agreement limits the Plaintiff's use of

compulsory process pursuant to any statute or regulation permitting the use of compulsory process.

MONETARY PAYMENT

17. Within 90 days of the date that the Court enters an Order, Judgment, or Decree approving the terms of this Agreement, Defendants shall pay One Hundred Twenty Five Thousand Dollars (\$125,000) to Plaintiff via certified check.

18. Payment made pursuant to Paragraph 17 shall be placed in the State Settlement Cash Fund. These funds may be used for attorney fees and other costs of investigation, future consumer protection or privacy enforcement, consumer education, litigation expenses, to defray the costs of the inquiry leading hereto, or for other uses permitted by state law at the sole discretion of the Nebraska Attorney General. The Parties acknowledge that the payment described in this paragraph is not a fine or penalty, or payment in lieu thereof.

RELEASE

19. Following full payment of the amount due under this Agreement, the State of Nebraska shall release and discharge Defendants from all civil claims that the Nebraska Attorney General could have brought under the Consumer Protection Act, the Uniform Deceptive Trade Practices Act, or any other consumer protection law based on Defendants' conduct alleged in the Complaint filed in this matter prior to the date that the Court enters an Order, Judgment, or Decree approving the terms of this Agreement. Nothing contained in this paragraph shall be construed to limit the ability of the Nebraska Attorney General to enforce the obligations that Defendants' have under this Agreement.

Further, nothing in this Agreement shall be construed to create, waive, or limit any private right of action.

GENERAL PROVISIONS

20. Defendants understand that this Agreement shall not be construed as an approval of or sanction by the Plaintiff of the Defendants' business practices, nor shall Defendants represent the Agreement as such approval. The Parties further understand and agree that any failure by the Plaintiff to take any action in response to any information submitted pursuant to this Agreement shall not be construed to be an approval of or sanction of any representations, acts, or practices of Defendants, nor shall any inaction by the Plaintiff be considered a waiver by the Plaintiff of any rights under this Agreement or the law.

21. Nothing in this Agreement shall be construed so as to limit or bar any other person or entity from pursuing any and all available legal remedies against Defendants; nor is it the intent of the Parties hereto that this Agreement shall create or support a cause of action against Defendants by non-parties to this Agreement.

22. Nothing in this Agreement shall prevent or restrict the use of this Agreement by the Plaintiff in any action against Defendants for contempt or failure to comply with any of its provisions, or in the event that Defendants are in default of any of its terms and conditions. A default on the part of Defendants shall include any material breach by Defendants of any of the terms or requirements of this Agreement. Nothing in this Agreement shall be construed to (i) exonerate any contempt or failure to comply with any of its provisions after the date that the Court enters an Order, Judgment, or Decree approving the terms of this Agreement, (ii) compromise or limit the authority of the Plaintiff

to initiate a proceeding for any contempt or other sanctions for failure to comply, or (iii) compromise the authority of the Court or any other court of competent jurisdiction to punish as contempt any violation of this Agreement.

23. If any portion, provision, or part of this Agreement is held to be invalid, unenforceable, or void for any reason whatsoever, that portion shall be severed from the remainder and shall not affect the validity or enforceability of the remaining provisions, portions, or parts.

24. This Agreement is made and entered into without trial or finding of fact or conclusions of law by a court. This Agreement does not constitute evidence against or an admission by Defendants of any issues of fact or any violations of law in the past or that Defendants have engaged in any inappropriate activities or other wrongdoing, and shall not be used in a manner inconsistent with these terms.

25. Defendants shall not, directly or indirectly, participate in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part in Nebraska that are prohibited by this Agreement or for any other purpose that would otherwise circumvent any term of this Agreement. Defendants shall not cause, knowingly permit, or encourage any other persons or entities acting on its behalf to engage in practices in whole or in part in Nebraska that are prohibited by this Agreement. The Parties understand that this term shall only apply to Defendants' acts or practices that directly or indirectly affect the people of the State of Nebraska.

26. This Agreement may be executed by any number of counterparts and by different signatories on separate counterparts, each of which shall constitute an original counterpart thereof and all of which together shall constitute one and the same document.

One or more counterparts of this Agreement may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart thereof.

27. This Agreement contains the entire understanding of the Parties and supersedes, and forever terminates, all prior and contemporaneous representations, promises, agreements, understandings, and negotiations, whether oral or written, with respect to its subject matter. Each party specifically warrants that this Agreement is executed without reliance upon any statement or representation by any other party hereto, except as expressly stated herein.

28. Except as otherwise provided under law, this Agreement may only be enforced by the State of Nebraska, Defendants, and this Court. The Parties to this action may agree, in writing, through counsel, to an extension of any time period in this Agreement without a Court order.

29. Other than monetary payment in paragraph 17, Defendants shall be provided 60 (sixty) days from entry of this consent judgment to implement full compliance with its terms.

30. Any notices, statements, or other written documents required by this Agreement shall be provided by first class mail and/or emailed to the intended recipients at the addresses set forth below, unless a different address is specified in writing by the Party changing such address:

- a. For the Nebraska Attorney General's Office:

Daniel J. Birdsall
Assistant Attorney General
Nebraska Attorney General's Office
2115 State Capitol
Lincoln, NE 68509
dan.birdsall@nebraska.gov

- b. For Tickets in Time, LLC, and Secure Ticket Purchase, LLC, doing business as Box Office Ticket Sales:

c/o Andrew J. Hilger, Attorney at Law
5170 Leavenworth Street, Ste. 3
Omaha, Nebraska 68106

- c. For John C. Uhrich:

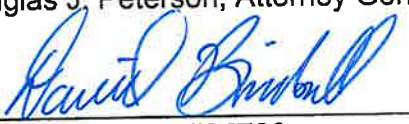
c/o Andrew J. Hilger, Attorney at Law
5170 Leavenworth Street, Ste. 3
Omaha, Nebraska 68106

JOINTLY APPROVED FOR ENTRY AND SUBMITTED BY:

FOR PLAINTIFF:

THE STATE OF NEBRASKA, ex rel.
DOUGLAS J. PETERSON, Attorney General

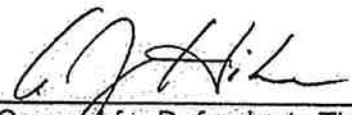
By: Douglas J. Peterson, Attorney General, #18146

By: 
Daniel J. Birdsall, #25726
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509-8920
Phone: (402) 471-3840
Fax: (402) 471-4725
dan.birdsall@nebraska.gov


12/10/18
Date

Counsel for the State of Nebraska

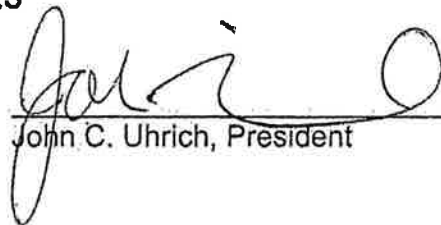
FOR DEFENDANTS:

By:  12/5/18
Counsel for Defendants Tickets In Time, LLC, Date
Secure Ticket Purchase, LLC, and
John C. Uhrich

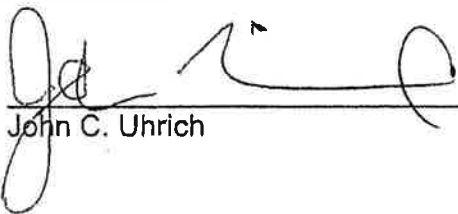
TICKETS IN TIME, LLC

By:  12/5/18
John C. Uhrich, President Date

SECURE TICKET PURCHASE, LLC doing business as BOX OFFICE TICKET SALES

By:  12/5/18
John C. Uhrich, President Date

JOHN C. UHRICH

By:  12/5/18
John C. Uhrich Date