

FILED

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

COUNTY OF WAKE

2015 JAN 12 AM 11: 11

SUPERIOR COURT DIVISION

13 CVS 002725

STATE OF NORTH CAROLINA, ^{WAKE COUNTY, C.S.C.}
ex rel.)
ROY COOPER, Attorney General, BY _____)

Plaintiff,)

v.)

DEFAULT BY JUDGMENT

FAT SOUND GUITAR AND MUSIC)
COMPANY, INC. and STUART VRIES)
CARTER, JR.,)

Defendant.)

PURSUANT TO RULE 55 OF THE NORTH CAROLINA RULES OF CIVIL PROCEDURE, the undersigned Judge presiding over the January 12, 2015 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 Stuart Vries Carter, Jr. and Defendant Fat Sound Guitar and Music Company, Inc. (hereinafter "Defendant Fat Sound") (collectively hereinafter "Defendants"). From the record herein, the Court finds as follows:

1. The Court has jurisdiction over the parties and subject matter.
2. On February 27, 2013, 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 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 H. Satterfield granted the State's Motion for Entry of Default against Defendants.
4. Defendants have failed to file an answer to the Complaint filed on February 27, 2013, and thus all of the allegations made by the State in the Complaint are deemed admitted.

5. 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.*

6. Defendants have failed to plead or to appear in this action, and are subject to Judgment by Default as provided by Rule 55 (b)(2) of the North Carolina Rules of Civil Procedure.

7. On December 12, 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(b) of the North Carolina Rules of Civil Procedure.

8. Defendant Stuart Vries Carter, Jr. (President and Owner of Defendant Fat Sound) is not an infant, or incompetent person, or otherwise under a disability.

9. 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 \$38,631 (*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 month of delay be deemed a separate violation, in the amount of \$2,785,000 (*See* Attachment B).

SO ORDERED, this the 12 day of January, 2015.



SUPERIOR COURT JUDGE

ATTACHMENT A

VICTIM LAST	VICTIM FIRST	Restitution
		\$
Barefoot	Mark	3,700.00
		\$
Barna	Mark R	2,700.00
		\$
Dollyhite	Christopher S	1,689.00
		\$
Fletcher	Billy F	6,000.00
		\$
Hice	Travis D	400.00
		\$
Leland	Paul I	2,900.00
		\$
Mattox	Mark C	1,699.00
Muth	Mary	
		\$
Oltman	Austin L	139.00
		\$
Rolle	James E	2,849.00
		\$
Shamel	Michael E	1,599.00
		\$
Silverman	Jeffrey A	6,988.00
		\$
Smith	Eric	139.00
		\$
Tignor	Allen J	1,900.00
		\$
Vanous	Michael P	2,000.00
		\$
Wigginton	Timothy	3,150.00
		\$
Wilder	Seth	640.00
		\$
Yant	John	139.00
		\$
		38,631.00

ATTACHMENT B

Victim Last	Victim First	Date of Contract	Entry of Default	Months	\$5,000 per month
Barefoot	Mark	7/31/2012	11/25/2014	27	\$ 135,000.00
Barna	Mark R	11/13/2012	11/25/2014	24	\$ 120,000.00
Dollywhite	Christopher S	7/11/2012	11/25/2014	28	\$ 140,000.00
Fletcher	Billy F	12/31/2011	11/25/2014	34	\$ 170,000.00
Hice	Travis D	9/28/2012	11/25/2014	25	\$ 125,000.00
Leland	Paul I	4/17/2012	11/25/2014	31	\$ 155,000.00
Mattox	Mark C	6/17/2010	11/25/2014	53	\$ 265,000.00
Muth	Mary		11/25/2014		
Oltman	Austin L	7/26/2012	11/25/2014	27	\$ 135,000.00
Rolle	James E	12/1/2011	11/25/2014	35	\$ 175,000.00
Shamel	Michael E	4/2/2012	11/25/2014	31	\$ 155,000.00
Silverman	Jeffrey A	1/11/2012	11/25/2014	34	\$ 170,000.00
Smith	Eric	8/20/2012	11/25/2014	27	\$ 135,000.00
Tignor	Allen J	7/27/2010	11/25/2014	51	\$ 255,000.00
Vanous	Michael P	3/15/2011	11/25/2014	44	\$ 220,000.00
Wigginton	Timothy	2/23/2012	11/25/2014	33	\$ 165,000.00
Wilder	Seth	7/5/2012	11/25/2014	28	\$ 140,000.00
Yant	John	10/22/2012	11/25/2014	25	\$ <u>125,000.00</u>
					\$ 2,785,000.00