

STATE OF INDIANA

IN THE DELAWARE COUNTY CIRCUIT COURT

CAUSE NO. _____

STATE OF INDIANA,

Plaintiff,

v.

BOOST SPORTS INTEGRATIVE
MEDIA LLC d/b/a HIGH SCHOOL
SPORTS ADVERTISING, and d/b/a
SPORTS MEDIA ADVERTISING

Defendant.

**COMPLAINT
FOR INJUNCTION,
RESTITUTION, CIVIL
PENALTIES, AND COSTS****I. INTRODUCTION**

1. The State of Indiana, by Attorney General Curtis T. Hill, Jr. and Deputy Attorney General Tamara Weaver, commences this civil action under the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1 *et seq.*, for injunctive relief, consumer restitution, civil penalties, costs, and other relief.
2. Boost Sports Integrative Media LLC, doing business as High School Sports Advertising and Sports Media Advertising, entered into consumer transactions with Indiana businesses for primarily charitable purposes by representing that it had the sponsorship, approval, or affiliation of certain Indiana public school corporations. But Boost Sports Integrative Media LLC failed to establish sponsorship, approval, or affiliation with the schools before soliciting these businesses, failed to deliver the products contracted for, and

remitted no funds to the schools. Boost Sports Integrative Media LLC's actions are unfair, abusive, and deceptive, and constitute violations of the Indiana Deceptive Consumer Sales Act.

II. PARTIES

3. The plaintiff, the State of Indiana, is authorized to bring this action under Ind. Code § 24-5-0.5-4(c).
4. The defendant, Boost Sports Integrative Media LLC ("Boost Sports"), is a Texas Limited Liability Company engaged in business in Indiana as a supplier of products and advertisements for charitable purposes purportedly on behalf of certain local area schools. Boost Sports has a principal place of business at 2409 East Loop 820 North Fort Worth, Texas 76118. Boost Sports is not registered with the Indiana Secretary of State as a foreign entity.

III. FACTS

5. From at least August 2017 to present, Boost Sports, acting under the assumed business names High School Sports Advertising and Sports Media Advertising, repeatedly solicited and contracted for services and products with Indiana businesses while representing that it had Yorktown High School's or Muncie Central High School's sponsorship, approval, or affiliation or that its products or services had Yorktown High School's or Muncie Central High School's sponsorship, approval, or affiliation.

6. Boost Sports solicited and entered into contracts to provide products or services represented as primarily charitable for the benefit of high school athletic programs.
7. Boost Sports, as Sports Media Advertising, sold advertisements to businesses by purporting to be affiliated with Yorktown High School and/or Muncie Central High School and indicating the advertisements were for the benefit of Yorktown High School and/or Muncie Central High School's athletic department.
8. Specifically, Boost Sports offered to businesses the opportunity to place advertisements on t-shirts, place advertisements on plastic cups, and to place advertisements on banners that would be displayed at athletic events.
9. Boost Sports represented that it worked with and had the sponsorship, approval, or affiliation with Muncie Central High School.
10. Boost Sports represented to the businesses that it worked with and had the approval of Kaylee Dunham, Cheer Coach of Yorktown High School.
11. Coach Dunham has never had contact with Boost Sports and has never given it any approval to represent any sponsorship, approval, or affiliation with Yorktown High School or any Yorktown High School athletic program.
12. In a letter dated December 22, 2017 Yorktown High School's legal counsel, Michelle Cooper, advised Boost Sports that it had no sponsorship, approval, or affiliation with the high school, warned it against acting as an agent of the

school, and demanded that it cease and desist from representing that it had sponsorship, approval, or affiliation with the school.

13. Boost Sports knew, or reasonably should have known, that neither it nor its products or services had a sponsorship, approval, or affiliation with Yorktown High School or Muncie Central High School.

14. Indiana businesses paid money to Boost Sports for advertisements on t-shirts, advertisements on plastic cups, and advertisements on banners that would be displayed at athletic events as follows:

	Name of Business	Advertisement and/or Items Contracted or Solicited For	Amount Paid
13.1	Wilhoite Family Dental	Advertisement on front of t-shirts to be distributed at Basketball games at Yorktown High School	\$810.00
13.2	Reed's Plumbing	Advertisement on 1,000 plastic cups to be passed out at athletic events at Yorktown High School; Banner to be displayed at athletic events at Yorktown High School	\$1,000.00
13.3	Sparks Computerized Car Care	Banner to be displayed at athletic events at Yorktown High School; Solicited support for Muncie Central High School Girls' Volleyball Team	\$200.00
13.4	Robertson Insurance Services	Banner to be displayed at athletic events at Yorktown High School; Advertisement on front of t-shirts to be distributed at Basketball games at Yorktown High School	\$1,010.00
13.5	Northside Endodontics, P.C.	Advertisement on front of t-shirts to be distributed at athletic events at Yorktown High School	\$410.00

15. Boost Sports did not produce or deliver any of the t-shirts ordered by the Indiana businesses listed in paragraph 13.
16. Boost Sports did not produce or deliver any of the plastics cups ordered by the Indiana businesses listed in paragraph 13.
17. Boost Sports delivered the banners ordered by Indiana businesses listed in paragraph 13 to an unsuspecting Yorktown High School, who did not display the banners.
18. Boost Sports has never remitted any funds or benefits to Yorktown High School or Muncie Central High School.

IV. CAUSES OF ACTION

COUNT I: **VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT**

19. The State re-alleges and incorporates by reference paragraphs 1 through 17.
20. Boost Sports' business solicitations are "consumer transactions" under Ind. Code § 24-5-0.5-2(a)(1).
21. Boost Sports is a supplier under Ind. Code § 24-5-0.5-2(a)(3).
22. Boost Sports violated Ind. Code § 24-5-0.5-3(a) by misrepresenting that it was affiliated with Yorktown High School and failing to deliver the promised service and goods.

COUNT II: **THE SUBJECT OF THE CONSUMER TRANSACTION HAD NO SPONSORSHIP OR APPROVAL**

23. The State re-alleges and incorporates by reference paragraphs 1 through 22.

24. Boost Sports violated Ind. Code § 24-5-0.5-3(b)(1) by misrepresenting that the products and services it was contracting to provide had Yorktown High School and/or Muncie Central High School's sponsorship, approval, or affiliation.

COUNT III:

VIOLATION OF THE DECEPTIVE CONSUMER SALES ACT – SUPPLIER HAD NO SPONSORSHIP, APPROVAL, OR AFFILIATION OF SCHOOLS

25. The State re-alleges and incorporates by reference paragraphs 1 through 24.
26. Boost Sports violated Ind. Code § 24-5-0.5-3-b(7) by misrepresenting that it was affiliated with Yorktown High School or had Yorktown High School's sponsorship or approval.

COUNT IV:

VIOLATION OF THE DECEPTIVE CONSUMER SALES ACT – FAILURE TO DELIVER SUBJECT OF CONSUMER TRANSACTION WITHIN A STATED PERIOD OF TIME

27. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 26.
28. The Defendant Boost Sports, by failing to deliver the cups and shirts that were ordered by businesses, violated Ind. Code § 24-5-0.5-3(b)(10) by representing it could deliver or complete the subject of a consumer transaction in a stated or reasonable period of time when the Defendant Boost Sports knew or reasonably should have known it could not.

COUNT V:

KNOWING VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

29. The State re-alleges and incorporates by reference paragraphs 1 through 28.

30. Boost Sports committed the acts alleged in this Complaint with knowledge of its deceptive nature.

COUNT VI:
INCURABLE DECEPTIVE ACTS

31. The State re-alleges and incorporates by reference paragraphs 1 through 30.

32. Boost Sports committed the acts identified in this Complaint as part of a scheme, artifice, or device with intent to defraud or mislead. Boost Sports committed incurable deceptive acts under Ind. Code § 24-5-0.5-8.

COUNT VII:
FAILURE TO REGISTER AS A FOREIGN ENTITY

33. The State re-alleges and incorporates by reference paragraphs 1 through 32.

34. Boost Sports violated Ind. Code § 23-0.5-5-2 by failing to register with the Indiana Secretary of State as a foreign entity.

V. RELIEF

35. The State requests the Court enter judgment against Boost Sports for the relief described in paragraphs 35 through 43.

36. The State seeks a permanent injunction under Ind. Code § 24-5-0.5-4(c)(1) enjoining Boost Sports from owning, operating, or managing any company or business engaged in the solicitation of Indiana businesses for a charitable purpose.

37. The State seeks a permanent injunction under Ind. Code § 24-5-0.5-4(c)(1) enjoining Boost Sports from representing to Indiana businesses or consumers, either explicitly or implicitly, that it has a sponsorship, approval,

affiliation, or any other relationship with any person or entity that it does not have.

38. The State seeks consumer restitution under Ind. Code § 24-5-0.5-4(c)(2) payable to the Office of the Attorney General for the benefit of the following:

Wilhoite Family Dental	\$810.00
Reed's Plumbing	\$1,000.00
Spark's Computerized Car Care	\$200.00
Robertson Insurance Services	\$1010.00
Northside Endodontics, P.C.	\$410.00

39. The State seeks costs under Ind. Code § 24-5-0.5-4(c)(4) awarded the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action.
40. The State seeks civil penalties under Ind. Code § 24-5-0.5-4(g) on Count V for Boost Sports' knowing violations of Ind. Code § 24-5-0.5-3(a), Ind. Code § 24-5-0.5-3(b)(1), Ind. Code § 24-5-0.5-3(b)(7), and Ind. Code § 24-5-0.5-3(b)(10), payable to the State of Indiana.
41. The State seeks civil penalties under Ind. Code § 24-5-0.5-8 on Count VI for Boost Sports' incurable deceptive acts, payable to the State of Indiana.
42. The State seeks civil penalties under Ind. Code § 23-0.5-5-2(f) on Count VII for Boost Sports' transacting business in Indiana without a certificate of authority.

43. The State seeks all other just and proper relief.

Respectfully submitted,

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