IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, TENNESSEE
FOR THE NINETEENTH JUDICIAL DISTRICT AT CLARKSVILLE, TENNESSEE

STATE OF TENNESSEE, Plaintiff, v. BRITLEE, INC. d/b/a The MILITARY ZONE a/k/a MILITARYZONE.COM, AND LAPTOYZ COMPUTERS AND ELECTRONICS; STUART L. JORDAN, individually and d/b/a BRITLEE, INC. and MILLENIUM FINANCE, INC.; MILLENIUM FINANCE, INC.; and ROME FINANCE COMPANY, INC., Defendants.	)	No. 50500795 Judge Ross Hicks

MOTION TO HOLD DEFENDANT ROME FINANCE COMPANY, INC. IN CIVIL CONTEMPT OF THIS COURT'S TEMPORARY RESTRAINING ORDER AND TO OBTAIN TENNESSEE CONSUMER PROTECTION ACT OF 1977 STATUTORY REMEDIES FOR VIOLATIONS OF COURT ORDERS

Pursuant to Tenn. R. Civ. P. 65.06, the State of Tennessee, by and through Robert E. Cooper, Jr., Attorney General and Reporter, on behalf of Mary Clement, Director, Division of Consumer Affairs of the Department of Commerce and Insurance, hereby moves this Court to hold Defendant Rome Finance Company, Inc. (hereinafter referred to as "Defendant Rome") in civil contempt of this Court's Temporary Restraining Order of September 23, 2005, and to seek all statutory remedies for violations of court orders under the Tennessee Consumer Protection Act of 1977 including, but not limited to, Tenn. Code Ann. § 47-18-108. Said Temporary Restraining Order (hereinafter referred to as "Order") was extended by agreements of the parties

and by orders of this Court on November 7, 2005, and again on February 24, 2006.

The instant motion is made based upon evidence of breaches of the Order and the real threat of continued breaches. The State moves this Court to punish Defendant Rome's disobedience and contempt by ordering Defendant Rome to pay penalties of $2,000.00 per violation of the Order, as authorized by Tenn. Code Ann. § 47-18-108(c).

Defendant Rome has failed to provide the State with the personally identifying information of the victims in this matter, including documentation regarding collection attempts, reports to credit reporting agencies and any other documentation relating to negative credit information being disseminated regarding said victims. This information is necessary so that the State and this Court can determine the extent of Defendant Rome's contempt. The failure of Defendant Rome to provide this information is based upon its demand for a protective order and the inability of the parties to agree on the language of a protective order. Therefore, the State moves this Court to order Defendant Rome to provide the State with the aforementioned information, and that any information that involves personally identifiable information be filed with this Court under seal in order to protect the victims' personally identifying information and to alleviate any need for a protective order for this specific information.

The State also moves this Court to award the State reimbursement of attorneys' fees and costs as authorized by Tenn. Code Ann. § 47-18-108(b)(4).

The State further moves this Court to consider each collection call, collection letter or other collection attempt by Defendant Rome and each negative credit report issued by Defendant Rome in violation of the Order to be considered a separate and distinct violation for the purposes of determining penalties, attorneys' fees and costs.

And finally, the State moves this Court to provide any other relief that this Court shall deem appropriate as authorized under state law.

As grounds for this Enforcement Motion the State submits that:

1. On September 23, 2005, the State filed a civil law enforcement action against Defendant Rome, Defendant Britlee, Inc. (hereinafter referred to as "Defendant Britlee") and other defendants and that this Court issued a temporary restraining order which ordered all Defendants to immediately restrain from:

   a. "Adversely affecting Tennessee consumers' credit reports;

   b. Continuing to collect the monthly allotment amount for service members who purchased computers in Tennessee; and

   c. Drawing funds from or debiting consumer's bank accounts, including, but not limited to, those accounts service members were required to establish at First Citizen's Bank in Kentucky for purposes of the payroll allotment."

2. On November 7, 2005, the parties agreed to an extension of the September 23, 2005 temporary restraining order, as modified, until a reasonable time after one of the parties moves to have a hearing set on the restraining order, and this Court so ordered;

3. The State subsequently filed a motion with this Court to reschedule the Rule 65.03(5) hearing at the earliest available date, but in no event later than February 27, 2006;

4. On February 24, 2006, the parties again agreed to an extension of the September 23, 2005 temporary restraining order, as modified by the November 7, 2005 Order, until a reasonable time after one of the parties moves to have a hearing set on the restraining order, and this Court so ordered;

5. At a point in time no later than October 20, 2006, the State notified Counsel for Defendant Rome of allegations that the terms and conditions of the restraining order were being violated, and said counsel acknowledged receipt of the notice on the same day;

6. At some subsequent point in time, Counsel for Defendant Rome advised the State that the collection attempts alleged to be in violation of the order had occurred because his client had reprogrammed its computers so that the accounts of Defendant Britlee's customers living in Tennessee would not be subject of collection attempts and negative credit information would not be issued, but forgot that some of the consumers who purchased from Defendant Britlee within the State of Tennessee actually lived in Kentucky. Based upon this representation and the promise to rectify the situation, the State did not immediately move for contempt, but instead asked for complete documentation on each consumer against whom collection efforts had been made, or against whom negative information had been issued;

7. Defendant Rome has not provided the information requested citing privacy

issues and has said that it will do so only under a protective order, but has not yet agreed to the terms of such an order;

8. On January 30, 2007, during the deposition of Specialist E-4 Salvador Moreno, Jr., a purchaser of a computer from Defendant Britlee in Tennessee, which was financed by Defendant Rome, the State learned for the first time that Defendant Rome had engaged in collection activity against Mr. Moreno, including the furnishing of negative credit information to a credit reporting company, that has caused Mr. Moreno to incur damage or injury;

9. Mr. Moreno testified that he lives in Tennessee, and has never lived in Kentucky; and

10. The State has received complaints from at least four other consumers who have been the subject of collection efforts by or on behalf of Defendant Rome and/or have had negative credit information placed against them by Defendant Rome after the entry of the Temporary Restraining Order. All of these consumers purchased product from Defendant Britlee within the State of Tennessee and were financed by Defendant Rome

The State hereby submits as evidence of the above described breaches, the attached:

1. Realtime and rough draft transcript of the sworn testimony of Specialist E-4 Salvador Moreno, Jr. (Pages 162 through 164); and

2. Affidavit of Donna Baldwin, Paralegal with the Office of the Attorney General, with attached complaints that were received by the Office of the

Attorney General in the normal course of business, documenting breaches of the Order and showing the real threat of continued breaches.

Based upon this evidence, the State specifically requests this Court hold or order the following sanctions and/or remedies:

A. Hold Defendant Rome in civil contempt of this Court's Temporary Restraining Order of September 23, 2005, pursuant to Chapter 9 of Title 29 of the Tennessee Code Annotated;

B. Order that Defendant Rome provide the State with the personally identifying information of the victims in this matter, including documentation regarding collection attempts, reports to credit reporting agencies and any other documentation relating to negative credit information being disseminated regarding said victims;

C. Order that the personally identifiable information to be furnished by Defendant Rome pursuant to B above, be filed with this Court under seal to protect the consumers from possible identity theft;

D. Hold that each collection call, collection letter or other collection attempt by Defendant Rome and each negative credit report issued by Defendant Rome in violation of this Court's Temporary Restraining Order of September 23, 2005, is considered to be a separate and distinct violation for the purposes of determining penalties, attorneys' fees and costs;

E. Order Defendant Rome to pay penalties of $2,000.00 for every violation which has been documented and which may be documented (with the information to be

furnished pursuant to B above) of this Court's Temporary Restraining Order of September 23, 2005, as authorized by Tenn. Code Ann. § 47-18-108(c);

F. Order Defendant Rome to immediately reimburse to the State its reasonable attorneys' fees and costs associated with this Motion and the investigation of Defendant Rome's violations of this Court's Temporary Restraining Order of September 23, 2005, as authorized by Tenn. Code Ann. § 47-18-108(b)(4); and

G. Order any and all other relief that this Court deems appropriate as authorized under state law.

The State requests that this Court use all authority and laws, regulations and rules to bring Defendants into compliance with the Court's September 23, 2005, Order and state law.

Respectfully submitted,

ROBERT E. COOPER, JR.
Attorney General and Reporter
B.P.R. 10934

JOHN S. SMITH, III
Assistant Attorney General
B.P.R. No. 023392
State of Tennessee
Office of the Attorney General
Consumer Advocate and Protection Division
Post Office Box 20207
Nashville, TN 37202-0207
Telephone: (615) 532-3382
Facsimile: (615) 532-2910

JSS/jz

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent February 14, 2007, via United States first class mail, postage prepaid, to the following:

John S. Hicks, Esquire
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
Commerce Center
211 Commerce Street, Suite 1000
Nashville, TN 37201
Phone: (615) 726-7337
Fax: (615) 744-7337

Counsel for Defendants Stuart L. Jordan, Britlee, Inc., and Millenium Finance, Inc.

and

Hugh J. Moore, Jr., Esquire
William R. Hannah, Esquire
Thomas Greenholtz, Esquire
Chambliss, Bahner & Stophel, P.C.
1000 Tallan Building
Two Union Square
Chattanooga, Tennessee 37402
Phone: (423) 757-0235
Fax: (423) 508-1235

Counsel for Defendant Rome Finance Company, Inc.

John S. Smith, III
Assistant Attorney