

**IN THE DELAWARE COUNTY COURT OF COMMON PLEAS
CIVIL TRIAL DIVISION**

COMMONWEALTH OF PENNSYLVANIA,
BY ATTORNEY GENERAL
MICHELLE A. HENRY,

Petitioner,

v.

BLUE MOON 2020, LLC
d/b/a Wertheimer Monuments,

Respondent.

No. CV-2024-005750

ASSURANCE OF VOLUNTARY COMPLIANCE

AND NOW, comes the Commonwealth of Pennsylvania, by Attorney General Michelle A. Henry (“Commonwealth” or “Petitioner”), which caused an investigation to be made into the business practices of Blue Moon 2020, LLC d/b/a Wertheimer Monuments (“Respondent”) pursuant to the provisions of the Pennsylvania *Unfair Trade Practices and Consumer Protection Law*, 73 P.S. § 201-1, *et seq.* (“Consumer Protection Law”), and states the following:

PARTIES

WHEREAS, Petitioner is the Commonwealth of Pennsylvania by Attorney General Michelle A. Henry, with offices located at 1600 Arch Street, 3rd Floor, Philadelphia, PA 19103.

WHEREAS, Respondent is a for-profit business corporation operating from 8400 Lansdowne Avenue, Upper Darby, PA 19082.

WHEREAS, Respondent owns the fictitious name “Wertheimer Monuments.”

BACKGROUND

WHEREAS, Respondent has engaged in trade and commerce within Pennsylvania by offering and selling monuments, markers, bronze plaques, mausoleums, cemetery lettering, and civic and feature monuments (“Goods”).

WHEREAS, based upon its investigation, the Commonwealth believes the Respondent has engaged in conduct which violates the Consumer Protection Law as more fully set forth below:

1. Respondent accepted monies for Goods.
2. In some cases, Respondent failed to provide the Goods within the time frame listed on its invoices, and in many of those cases where Respondent eventually provided the Goods, the Goods were provided months and even years outside of the represented time frame.
3. In some cases, Respondent failed to provide the Goods altogether, yet accepted full payment for the Goods years ago.
4. In those cases where Respondent failed to provide the Goods, Respondent failed to provide the consumers a refund.
5. Respondent conducts business from a cemetery owned and operated by the same principal.
6. Although the invoice for the Goods lists Respondent, payment was sometimes made to the cemetery.
7. Advertising by both the cemetery and Respondent is not clear that these are two separate, unaffiliated businesses.

WHEREAS, the Commonwealth contends that the aforesaid acts and practices constitute “unfair methods of competition” and/or “unfair or deceptive acts or practices,” as prohibited by Section 201-3 of the Consumer Protection Law, as defined by Section 201-2(4)(ii), (iii), (v), and (xxi) as follows:

1. Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services, 73 P.S. § 201-2(4)(ii);
2. Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another, 73 P.S. § 201-2(4)(iii);
3. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has sponsorship, approval, status, affiliation or connection that he does not have, 73 P.S. § 201-2(4)(v); and
4. Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding, 73 P.S. § 201-2(4)(xxi);

WHEREAS, this Assurance of Voluntary Compliance (“Assurance”) is accepted by the Commonwealth pursuant to Section 201-5 of the Consumer Protection Law, in lieu of commencing statutory proceedings provided under Sections 201-4 of the Consumer Protection Law and shall not be considered an admission of a violation, 73 P.S. §§ 201-4 and 201-5.

SETTLEMENT TERMS

NOW THEREFORE, having conducted trade and commerce within the Commonwealth, of Pennsylvania Respondent agrees for itself, its successors, assigns, agents, employees and all other persons acting on its behalf, directly or through any corporate or other business device to the following:

I. Injunctive and Affirmative Relief

A. Respondent shall comply with any and all provisions of the Consumer Protection Law and any amendments thereto; and, is permanently enjoined from any violation thereof.

B. Respondent shall not cause confusion as to the affiliation or lack thereof between itself and the cemetery located at the same business location.

C. For all orders placed after the Effective Date of this Assurance, Respondent shall include on its invoices a date by which the Goods shall be delivered to the consumer, no later than eight (8) months from the date of the invoice (“Delivery Date”).

D. For all orders placed after the Effective Date of this Assurance, Respondent shall deliver the Goods by the Delivery Date.

E. For all outstanding orders to be fulfilled as of the Effective Date of this Assurance, Respondent shall deliver the Goods to the consumers within six (6) months of the Effective Date of this Assurance. Separately provided to Respondent as Exhibit A is a list of the outstanding orders to be completed pursuant to this provision.

F. Respondent shall send a report to the Commonwealth within seven (7) months of the Effective Date of this Assurance, evidencing that all outstanding orders have been delivered pursuant to Paragraph E above.

II. Monetary Relief

A. Respondent is responsible for and shall pay to the Commonwealth a payment of Two Thousand Dollars (\$2,000) which shall be distributed to the Commonwealth of Pennsylvania, Office of Attorney General, to reimburse the costs incurred in pursuing this enforcement action, and shall be deposited in an interest-bearing account from which both principal and interest shall be expended for future public protection and education purposes.

B. Upon Respondent executing this Assurance, Respondent shall submit the Required Payment by certified check, cashier's check, or money order, made payable to the Commonwealth of Pennsylvania, Office of Attorney General, and forwarded to Chief Deputy Attorney General John Abel, 15th Floor Strawberry Square, Harrisburg, PA 17120.

C. **Suspended Civil Penalty** – A penalty shall be assessed against Respondent in the amount of Twenty-Five Thousand Dollars (\$25,000) but shall not become due and payable unless and until a Court of competent jurisdiction finds that Respondent is in default of this Assurance, and such penalty shall be in addition to any other relief pursuant to Section 201-8(a) which may be assessed for violating this Assurance.

III. Miscellaneous Terms

A. The Delaware County Court of Common Pleas shall maintain jurisdiction over the subject matter of this Assurance and over the Respondent for purpose of enforcement of the terms of this Assurance.

B. Time shall be of the essence with regards to Respondent's obligations hereunder.

C. The Effective Date shall be the date this Assurance is filed with the Court.

D. Any failure of the Commonwealth to exercise any of its rights under this Assurance shall not constitute a waiver of its rights hereunder.

E. Larry Moskowitz, as President of Respondent hereby states that he is authorized to enter into and execute this Assurance on behalf of Respondent.

F. Respondent further agrees to execute and deliver all authorizations, documents and instruments which are necessary to carry out the terms and conditions of this Assurance, whether required prior to, contemporaneous with or subsequent to the Effective Date, as defined herein.

G. Nothing contained in this Assurance shall be construed to waive or limit any individual right of action by any consumer, person or entity, or by any local, state, federal or other governmental entity.

H. Respondent agrees by the signing of this Assurance that Respondent shall abide by each of the aforementioned provisions and that the breach of any one of these terms shall be sufficient warrant for the Commonwealth to seek penalties provided for under Section 201-8(a) of the Consumer Protection Law, 73 P.S. § 201-8(a), and to seek any other equitable relief which the Court deems necessary or proper, up to and including forfeiture of the right to engage in trade or commerce within the Commonwealth of Pennsylvania.

I. This Assurance may be executed in any number of counterparts and by different signatories on separate counterparts, each of which shall constitute an original counterpart hereof and all of which together shall constitute one and the same document. One or more counterparts of this Assurance may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart hereof.

J. Respondent understands and agrees that if it has made any false statement in or related to this Assurance, that such statement is made pursuant to and under penalty of 18 Pa.C.S. § 4904 relating to unsworn falsifications to authorities.

K. This Assurance sets forth all of the promises, covenants, agreements, conditions and understandings between the parties, and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, express or implied. There are no representations, arrangements, or understandings, oral or written, between the parties relating to the subject matter of this Assurance that are not fully expressed herein or attached hereto. Each

party specifically warrants that this Assurance is executed without reliance upon any statement or representation by any other party hereto, except as expressly stated herein.

L. If any clause, provision or section of this Assurance shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Assurance and this Assurance shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not be contained herein.

WHEREFORE, intending to be legally bound, the parties have hereto set their hands and seals.

SIGNATURES ON SEPARATE PAGES

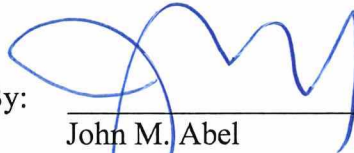
For the Petitioner:
COMMONWEALTH OF PENNSYLVANIA

Michelle A. Henry
Attorney General

Date: _____

8-16-24

By: _____



John M. Abel
Chief Deputy Attorney General
Attorney I.D. #47313
Pennsylvania Office of Attorney General
15th Floor, Strawberry Square
Harrisburg, PA 17120
Telephone: (717) 497-5931
Fax: (717) 705-3795

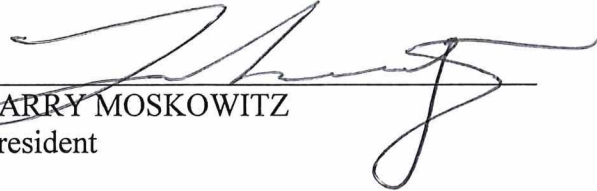
For the Respondent:

BLUE MOON 2020, LLC d/b/a Wertheimer
Monuments

Date:

8/1/24

By:



LARRY MOSKOWITZ
President

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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Date: 8-16-24

By: 

John M .Abel
PA Attorney I.D. 47313
Senior Deputy Attorney General
Pennsylvania Office of Attorney General
Strawberry Square, 15th Floor
Harrisburg, Pennsylvania 17120
Telephone: (717) 497-5931
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CERTIFICATE OF SERVICE

Undersigned counsel does hereby certify that a true and correct copy of the foregoing Praecipe to substitute Assurance of Voluntary Compliance was served by means of First Class U.S. Mail, postage prepaid, on the date noted below:

Blue Moon 2020, LLC d/b/a Wertheimer Monuments
Attn: Larry Moskowitz, President
8400 Lansdowne Avenue
Upper Darby, PA 19082

Date: _____

8-16-24

By: _____



John M .Abel
PA Attorney I.D. 47313
Senior Deputy Attorney General
Pennsylvania Office of Attorney General
Strawberry Square, 15th Floor
Harrisburg, Pennsylvania 17120
Telephone: (717) 497-5931
jabel@attorneygeneral.gov

FILED

08-16-2024 09:57 AM
OFFICE OF JUDICIAL SUPPORT
DELAWARE COUNTY, PA