

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION – CIVIL

STULL ENTERPRISES, INC.	:	DECEMBER TERM, 2007
	:	
Plaintiff,	:	NO. 01871
	:	
v.	:	COMMERCE PROGRAM
	:	
SCHILLER-PFEIFFER, INC, and	:	
COMMERCIAL GROUNDS CARE, INC.,	:	
	:	
Defendants.	:	

ORDER
SUR BENCH TRIAL

AND NOW, this 3rd day of August, 2011, after a non-jury trial and in accord with the Opinion being filed contemporaneously, it is **ORDERED** that a **FINDING** is entered in favor of defendants, Schiller-Pfeiffer, Inc. and Commercial Grounds Care, Inc., and against plaintiff Stull Enterprises, Inc. on all claims.

BY THE COURT:

Stull Enterprises Inc V-ORDOP




ALBERT W. SHEPPARD, JR., J.

DOCKETED
AUG - 3 - 2011
B. VENTURO

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Defendants.	:	

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**O P I N I O N
SUR BENCH TRIAL FINDING**

Albert W. Sheppard, Jr., J. August 3, 2011

Plaintiff Stull Enterprises, Inc. (“Stull”) was a long time distributor of commercial grounds care equipment for non-party Jacobsen Division of Textron, Inc. (“Jacobsen”). In August, 2006, defendant Schiller-Pfeiffer, Inc. acting through its affiliate, defendant Commercial Grounds Care, Inc. (“CGC”), acquired the assets of Jacobsen.

In September, 2006, Stull consented to the assignment of its existing Distributorship Agreement with Jacobsen to CGC. The Distributorship Agreement contained the following termination provisions:

Unless sooner terminated as provided for herein, the term and effective date of this Agreement shall be set forth in the Addendum in effect from time to time. This Agreement shall expire in the event no Addendum is in effect. Neither party has the right, express or implied, to renew or continue this Agreement. Distributor and Jacobsen each acknowledge by signing this Agreement that neither has any obligation or duty to give notice to the other party of the non-renewal of this Agreement.

* * *

This Agreement may be terminated by either party at any time without cause by giving ninety (90) days written notice to the other party.

The Addendum to the Distributorship Agreement provided as follows:

Subject to the provisions of the Distributor Agreement, this Addendum and Distributor's rights under the Distributor Agreement shall commence on 1/1/06 and expire on 12/31/06.

In October, 2006, Stull executed a document prepared by CGC which was entitled "CGC Transition Program Finalization" (the "CGC Agreement"). The CGC Agreement purported "[t]o transition all programs into the 2007 selling season and finalize the 2006 incentive and rebate programs in whole." The CGC Agreement also set forth Stull's "2007 program rate" and "minimum wholesale shipment required for 2007." The CGC Agreement further provided that, "This program is subject to change or termination without notice." The CGC Agreement constituted a contract between CGC and Stull.

On November 27, 2006, CGC sent Stull a letter purporting to terminate Stull's Distributorship Agreement as of December 31, 2006. As a result, Stull claims it had to liquidate its inventory of CGC products and terminate many of its employees. Stull also claims it lost significant profits.

On December 31, 2006, the Jacobsen Distributorship Agreement expired according to its terms because no new Addendum was entered into. Also on December 31, 2006, the CGC Agreement was properly terminated according to its terms by CGC's letter of termination. In summary then, CGC did **not** breach either of its contracts with Stull.

CGC was privileged to terminate the parties' arrangement under the terms of the contracts between them. Therefore, CGC did **not** tortiously interfere with Stull's relationships with its customers by terminating Stull as a distributor.

For these reasons, the court finds against plaintiff, Stull and for the defendants on all claims.

An Order consistent with this Opinion will be entered.

BY THE COURT:

A handwritten signature in black ink that reads "Sheppard". The signature is written in a cursive style with a large initial "S".

ALBERT W. SHEPPARD, JR., J.