

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
CIVIL ACTION NO. 17-CF-1037
DIVISION II



COMMONWEALTH OF KENTUCKY, *ex rel.*
ANDY BESHEAR, ATTORNEY GENERAL

PLAINTIFF

COMPLAINT

v.

Claxon Management Group, LLC

Serve:

William C. Claxon, agent for Claxon Management Group, LLC
186 Interstate Drive
Grayson, KY 41143

William C. Claxon, agent for Claxon Management Group, LLC
163 Vista View
Grayson, KY 41143

William C. Claxon, Individually

Serve:

William C. Claxon
163 Vista View
Grayson, KY 41143

DEFENDANTS

Comes the Plaintiff, the Commonwealth of Kentucky, *ex rel.* Andy Beshear, Attorney General, and for its Complaint against the Defendants states as follows:

I. PARTIES, JURISDICTION, AND VENUE

1. Plaintiff, the Commonwealth of Kentucky, *ex rel.* Andy Beshear, Attorney General, (hereinafter "Commonwealth," "Attorney General," or "OAG") is responsible for the enforcement and administration of Kentucky law, including the Consumer Protection Act, KRS 367.110, *et seq.* and the registration of health spas, KRS 367.905, *et seq.* The Attorney General is authorized by KRS 367.190 and KRS 367.925 to bring this action in the name of the

Commonwealth because he has reason to believe that Defendants are operating a health spa without registering with the Commonwealth in violation of KRS 367.900 to 367.930 and has determined this action to be in the public interest.

2. William C. Claxon is the owner and registered agent of Claxon Management Group, LLC. Claxon Management Group, LLC has an assumed name of American Health Center of Grayson. American Health Center of Grayson operates a health spa located at 186 Interstate Drive, Grayson, KY 41143.

3. Defendants have sold memberships without being properly registered as required by KRS 367.905 (1) (a) and posting the bond required by KRS 367.905 (1) (b). They have also failed to renew the registration and post a bond in violation of KRS 367.905 (2).

4. Venue is proper in Franklin County pursuant to KRS 367.190 (1) in that the failure to register took place in Franklin County.

II. FACTS

5. The Commonwealth hereby incorporates by reference the foregoing paragraphs.

6. For part of the 2015-2016 registration year, Health Spa #462, American Health Club of Grayson, was owned and operated by D. Scott Landers and was registered with the Commonwealth of Kentucky. See Affidavit of Angela Turton attached as Exhibit A.

7. The health spa was sold to William Chris Claxon on or about March 26, 2016. This sale required the new owner to file an initial registration pursuant to KRS 367.905 (1) (a) and post the bond required by KRS 367.905 (1) (b) for the 2015-2016 registration year. See Exhibit A.

8. The initial health spa registration packet was sent certified mail to the American

Health Center of Grayson. The receipt was returned signed. See Exhibit A.

9. The Defendants did not file the initial registration nor post a bond for the 2015-2016 year. See Exhibit A.

10. Health spas are required to renew annually on July 1 of each year. The Defendants did not renew the registration nor post a bond for the 2016-2017 registration year. See Exhibit A.

11. The Defendants also did not renew the registration nor post a bond for the 2017-2018 registration year. See Exhibit A.

III. LAW

12. Defendants have sold memberships without being properly registered as required by KRS 367.905 (1) (a) and posting the bond required by KRS 367.905 (1) (b). They have also failed to renew the registration and post a bond in violation of KRS 367.905 (2).

13. KRS 367.905 (1) states, in pertinent part:

(1) Any person, corporation, partnership, association, or group intending to open or operate a health spa within the Commonwealth **shall**:

(a) File a registration statement, accompanied by a one hundred dollar (\$100) initial registration fee, with the Attorney General's Division of Consumer Protection **prior** to the sale of any memberships in the Commonwealth of Kentucky....

(b) **Prior** to the sale of any memberships in the Commonwealth of Kentucky, provide the Attorney General's Division of Consumer Protection with a surety bond meeting the requirements of KRS 367.906.

(Emphasis added).

14. Once initially registered, KRS 367.905 (2) requires that a new registration statement be filed on or before July 1 of each subsequent year.

15. All of the remedies provided to the Attorney General by the Consumer Protection Act, KRS 367.190 to 367.300, apply to the health spa registration requirements. KRS 367.925. This includes a permanent injunction pursuant to KRS 367.190 and a civil penalty of \$2,000 per violation pursuant to KRS 367.990 (2).

IV. CONCLUSION AND PRAYER FOR RELIEF

16. The Defendants, William C. Claxon, and the Claxon Management Group, LLC have failed to register as health spa and post the required bond for the last three (3) registration years 2015-2016, 2016-2017, and 2017-2018.

WHEREFORE, Plaintiff prays for relief as follows:

A. An injunction pursuant to KRS 367.190 that Defendants, directly or through any corporation, partnership, subsidiary, division, trade name, device, affiliate, or other entity, and any other persons in active concert or participation with the Defendants is hereby permanently restrained or enjoined from the operation of a health spa in the Commonwealth of Kentucky;

B. A finding that the Defendants willfully used methods, acts, or practices declared unlawful by KRS 367.170;

C. A civil penalty of two thousand dollars (\$2,000) pursuant to KRS 367.990 (2) for each year that the Defendants has not filed a registration statement in violation of KRS 367.905 (1) (a) and KRS 367.905 (2) for a total of six thousand dollars (\$6,000);

D. A civil penalty of two thousand dollars (\$2,000) pursuant to KRS 367.990 (2) for each year that the Defendants have not posted a surety bond in violation of KRS 367.905 (1) (b) for a total of six thousand dollars (\$6,000);

E. Plaintiff's reasonable costs of litigation incurred in this action; and

F. Any and all other relief to which the Plaintiff may appear entitled.

ANDY BESHEAR, ATTORNEY GENERAL



Jonathan Farmer
Leah Cooper Boggs
Assistant Attorneys General
Consumer Protection Division
1024 Capital Center Drive
Frankfort, KY 40601
502-696-5448
Jonathan.Farmer@ky.gov

AFFIDAVIT OF ANGELA TURTON

Comes the Affiant, being first duly sworn, and states as follows:

1. I am employed as an administrative specialist in the Office of the Attorney General (hereinafter "OAG"). As part of my duties, I register health spas.
2. I am familiar with the facts stated in this affidavit and am competent to testify to these facts.
3. For part of the 2015-2016 registration year, Health Spa #462, American Health Center of Grayson, was owned and operated by D. Scott Landers and was registered with the Commonwealth of Kentucky.
4. The health spa was sold to William Chris Claxon on or about March 26, 2016. This sale required the new owner to file an initial registration pursuant to KRS 367.905(1)(a) and post the bond required by KRS 367.905(1)(b).
5. An initial health spa registration packet was sent certified mail to the American Health Center of Grayson, Attn: Chris Claxon, on April 11, 2016. The signed receipt was returned on April 18, 2016. See Attachment 1.
6. Defendants never registered nor posted a bond for the 2015-2016 year.
7. Health spas are required to renew annually on July 1 of each year.
8. On October 24, 2016, I called the American Health Center of Grayson and spoke with the receptionist who provided the owner's (Chris Claxon) email address and cell phone number. I then sent an email to Mr. Claxon with the initial health spa registration packet attached. See Attachment 2.

Exhibit A

9. On November 7, 2016, I called the cell phone number and left a message. I received no return call.

10. On November 22, 2016, I again called the cell phone number and spoke with Mr. Claxon. He informed me that the registration had been completed and mailed. The OAG did not receive this registration packet.

11. On February 8, 2017, I sent a final notice of registration delinquency certified mail. The receipt was returned signed. See Attachment 3.

12. On March 21, 2017, I sent another notice of registration delinquency certified mail. This letter was returned, unable to forward. See Attachment 4.

13. Defendants never registered nor posted a bond for the 2016-2017 year.

14. Health spas are required to renew annually on July 1 of each year.

15. On August 8, 2017, this Office corresponded with the Defendants regarding the registration delinquency. See Attachment 5.

16. To date, the OAG has received no registration nor bond for the 2017-2018 registration year.

17. The Defendants, William C. Claxon, and Claxon Management Group, LLC have failed to register as a health spa and post the required bond for the last three (3) registration years of 2015-2016, 2016-2017, and 2017-2018.

FURTHER AFFIANT SAYETH NOT.

I hereby certify that the foregoing statements are true and correct to the best of my knowledge and belief.


Angela Turton, Affiant

COMMONWEALTH OF KENTUCKY)
COUNTY OF FRANKLIN)

Subscribed and sworn to before me this 27 day of September, 2017.

My Commission expires

6-22-2019



Notary Public



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

ANDY BESHEAR
ATTORNEY GENERAL

April 11, 2016

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KENTUCKY 40601

CERTIFIED MAIL

AHC of Grayson
ATTN: Chris Claxon
186 Interstate Drive
Grayson, KY 41143

Re: Health Spa Registration & Bonding

Dear Mr. Claxon:

As the new owner of AHC of Grayson, please be advised that you may be operating a health spa as defined in KRS 367.900. The Kentucky Health Spa Act requires registration and possibly bonding. The only exemptions from this statute are spas defined as "non-profit organizations" under 26 U.S.C. Section 509(a) or spas that are limited to diet counseling and have no exercise equipment.

The Act requires health spas to register with this office on an annual basis. The initial registration shall contain a registration statement, accompanied by a \$100 initial registration fee, and either a bond or Affidavit of Exemption from bonding. The registration must be renewed annually, prior to July 1 of each year. A renewal registration shall consist of the same materials required for an initial registration, with a \$50 renewal fee.

A surety bond may also be required under the Act. KRS 367.906 explains this requirement. If a spas unexpired contracts and membership plans meet the following criteria set forth in KRS 367.906(4)(a)(b); (1) no member pays an initiation fee or similar non-recurring fee, and (2) no payment for services is accepted more than 31 days (i.e. one month) in advance, they are exempt from the bonding requirement.

If a bond is required, the amount shall be determined as stated in KRS 367.906(3) by the number of unexpired contracts a spa has as follows:

150 or fewer - \$10,000
151-300 - \$25,000
301 or more - \$50,000

Attachment 1

April 11, 2016

Page Two

In satisfying the bonding requirement, spas presently have a choice of three kinds of bonds--a bond insured by an insurance company authorized to transact insurance in Kentucky, a bond supported by a Certificate of Deposit held in escrow by a Kentucky financial institution of the spa's choice, or Letter of Credit.

KRS 367.910 sets forth guidelines for the contents of health spas written contracts. Among other things, this requires that a members cancellation rights be on their contract and specifies the form and format that the rights must appear in.

Enclosed is the following information which should help you to comply fully with the Act:

- (1) a copy of the statute;
- (2) a copy of the registration form; and
- (3) a copy of the bond materials.

We request that you provide this office with a completed registration within the next thirty (30) days. Failure to do so will indicate that you intend to operate a health spa without complying with KRS 367.900 et seq. which could result in legal action against you by our office. If you feel you are exempt from the registration requirements, please provide this office with a written statement to that effect. We will review the information available to us and determine if registration is required.

If you have any questions feel free to contact me.

Sincerely,

ANDY BESHEAR
ATTORNEY GENERAL

Angela H. Turton

Angela H. Turton
Consumer Protection Division
Registration and Compliance
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204
(502) 696-5300

SENDER: COMPLETE THIS SECTION

- ☐ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- ☐ Print your name and address on the reverse so that we can return the card to you.
- ☐ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

AHC of Grayson
ATTN: Chris Claxon
186 Interstate Drive
Grayson, KY 41143

COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☒ *Chris Claxon* ☐ Agent
- B. Received by (Printed Name) *Chris Claxon* ☐ Addressee
- C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

RECEIVED

APR 18 2013

3. Service Type

- ☒ Certified Mail™ ☐ Registered Mail™ ☐ Return Receipt for Merchandise
- ☐ Insured Mail ☐ Collect on Delivery

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number

(Transfer from service label)

715 B 3230 0001 0444 1809

PS Form 3811, July 2013

Domestic Return Receipt

Turton, Angela (KYOAG)

From: Turton, Angela (KYOAG)
Sent: Monday, October 24, 2016 5:25 PM
To: 'wccclaxon@yahoo.com'
Subject: Kentucky Health Spa Registration AHC Grayson
Attachments: Health Spa KRS packet.pdf; HEALTH SPA REGISTRATION PACKET 5.3.16.pdf

Dear Mr. Claxon,

It is my understanding that you purchased AHC of Grayson in April, 2016. On April 11, 2016, I sent you a certified letter that advised you of the need to register your facility with this office. I am making one last appeal to you, and have attached the Kentucky Revised Statutes detailing Health Spa Registrations, and the Registration Statement including bond requirement information. Please refer to the checklist as highlighted items MUST be submitted to this office. If you have not submitted your registration statement by Monday, November 7, 2016, I will have no further recourse than to refer this matter to our attorneys for further review and possible litigation. If you have questions, please feel free to contact me. I look forward to a quick resolution of this matter.

Sincerely,

Angela H. Turton
Office of the Attorney General
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601
(502) 696.5380
angela.turton@ky.gov



This E-mail message and any attachments may contain legally privileged, confidential or proprietary information. If you are not the intended recipient(s), or the employee or agent responsible for delivery of this message to the intended recipient(s), you are hereby notified that any dissemination, distribution or copying of this E-mail message is strictly prohibited. If you have received this message in error, please immediately notify the sender and delete this E-mail message from your computer.

Attachment 2



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

ANDY BESHEAR
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601

February 8, 2017

CERTIFIED MAIL

AHC of Grayson
ATTN: Chris Claxon
186 Interstate Drive
Grayson, KY 41143

RE: FINAL NOTICE
Need to Register as a Health Spa

Dear Mr. Claxon:

This is your **final notice** regarding your need to register your health spa as defined in KRS 367.900. A letter and copies of the KRS and registration forms were mailed to you on April 11, 2016, with a 30-day submission deadline. On October 24, 2016, the registration packet was emailed to you with a submission deadline of November 7, 2016. I spoke with you on November 22, 2016, to advise you that this office had still not received your registration. You advised me that to your knowledge, it was mailed the previous week, and that you would look into the matter. However, to date, this office has received no documentation indicating that you are attempting to register your health spa.

The Kentucky Health Spa Act requires health spas to register with this Office on an annual basis. The initial registration shall contain a registration statement, accompanied by a \$100 initial registration fee, and either a bond or Affidavit of Exemption from bonding. The registration must be renewed annually, **prior to July 1 of each year**. A renewal registration shall consist of the same materials required for an initial registration, with a \$50 renewal fee.

Chris Claxon
Page Two (2)
February 8, 2017

Failure to comply with the registration requirements while conducting business in Kentucky could result in legal action against you by our Office. Penalties for operating a health spa without having registered include civil penalties of injunction, restitution, and fines of up to \$2,000.00 per willful violation. Any operation without proper registration will be treated as a willful violation.

Please submit your completed registration application (leaving no blank spaces), including all documents requested (including either a bond or Affidavit of Exemption from bonding, copies of all membership offers, copies of all contracts, verification of your ability to conduct business in Kentucky, by copy of the Kentucky Secretary of State Annual Report or current business license, and a check made payable to the Kentucky State Treasurer in the amount of One Hundred (\$100.00) for the July 1, 2016 to June 30, 2017 year) to this Office.

If the required documents are not received in this office by **February 15, 2017**, this matter will be referred to our attorneys for further action. If you have any questions, please feel free to contact me or Kimberly Bellamy, Branch Manager at 502-696-5534.

Sincerely,

ANDY BESHEAR
ATTORNEY GENERAL

Angela H. Turton

Angela H. Turton
Office of Consumer Protection
Compliance and Registration
502-696-5380
angela.turton@ky.gov

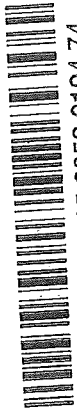
cc: file

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

AHC of Grayson
ATTN: Chris Claxton
186 Interstate Drive
Grayson, KY 41143



9590 9402 1705 6053 0194 74

2. Article Number (Transfer from service label)
7015 1520 0001 1774 0964

PS Form 3811, July 2015 PSN 7530-02-000-9053

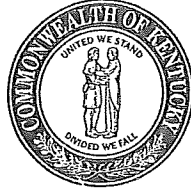
COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent
Chris Claxton ☐ Addressee
B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
- ☐ Adult Signature
 - ☐ Adult Signature-Restricted Delivery
 - ☒ Certified Mail®
 - ☐ Certified Mail-Restricted Delivery
 - ☐ Collect on Delivery
 - ☐ Collect on Delivery Restricted Delivery
 - ☐ Insured Mail
 - ☐ Insured Mail Restricted Delivery (over \$500)
 - ☐ Priority Mail Express®
 - ☐ Registered Mail™
 - ☐ Registered Mail Restricted Delivery
 - ☐ Return Receipt for Merchandise
 - ☐ Signature Confirmation™
 - ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

ANDY BESHEAR
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601

March 21, 2017

CERTIFIED MAIL

Claxon Management Group, LLC
dba American Health Center of Grayson
ATTN: Chris Claxon
163 Vista View
Grayson, KY 41143

**RE: FINAL NOTICE Need to Register as a Health Spa
American Health Center of Grayson 186 Interstate Dr Grayson, KY 41143**

Dear Mr. Claxon:

This is your **final notice** regarding your need to register your health spa as defined in KRS 367.900. A letter and copies of the KRS and registration forms were mailed to you on April 11, 2016, with a 30-day submission deadline. On October 24, 2016, the registration packet was emailed to you with a submission deadline of November 7, 2016. I spoke with you on November 22, 2016, to advise you that this office had still not received your registration. You advised me that to your knowledge, it was mailed the previous week, and that you would look into the matter. On February 8, 2017, a final notice was mailed to AHC of Grayson via certified mail advising that this office had still received no documentation indicating that you are attempting to register your health spa, and you were given a final submission date of **February 15, 2017**.

The Kentucky Health Spa Act requires health spas to register with this Office on an annual basis. The initial registration shall contain a registration statement, accompanied by a \$100 initial registration fee, and either a bond or Affidavit of Exemption from bonding. The registration must be renewed annually, **prior to July 1 of each year**. A renewal registration shall consist of the same materials required for an initial registration, with a \$50 renewal fee.

Chris Claxon
Page Two (2)
March 21, 2017

Failure to comply with the registration requirements while conducting business in Kentucky could result in legal action against you by our Office. Penalties for operating a health spa without having registered include civil penalties of injunction, restitution, and fines of up to \$2,000.00 per willful violation. Any operation without proper registration will be treated as a willful violation.

As this office has not received the required registration documents and fees, this matter has been forwarded to our attorneys for further review.

Sincerely,

ANDY BESHEAR
ATTORNEY GENERAL

Angela H. Turton

Angela H. Turton
Office of Consumer Protection
Compliance and Registration
502-696-5380
angela.turton@ky.gov

cc: file

COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL
1024 CAPITAL CENTER DRIVE, SUITE 200
FRANKFORT, KENTUCKY 40601-8204

CP-203

RECEIVED

APR 26 2017

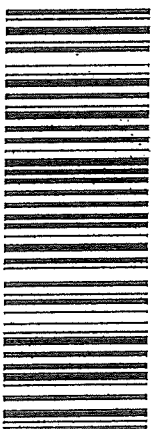
CONSUMER PROTECTION DIVISION

13-23
3/28

WNC

Claxon Management Group, LLC
dba American Health Center of Grayson
ATTN: Chris Claxon
163 Vista View
Grayson, KY 41143

7015 1520 0001 1774 1015



CERTIFIED MAIL

neopost
03/21/2017
FIRST-CLASS MAIL
US POSTAGE \$006.56



ZIP 40601
041M12250918

MIXIE 250 DE 1

RETURN TO SENDER
UNABLE TO FORWARD

BC: 40601751350
1774-03324-17-22

406017513

406017513

SENDER: COMPLETE THIS SECTION

- ☐ Complete items 1, 2, and 3.
- ☐ Print your name and address on the reverse so that we can return the card to you.
- ☐ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Claxon Management Group, LLC
dba American Health Center of Grayson
ATTN: Chris Claxon
163 Vista View
Grayson, KY 41143



9590 9402 1705 6053 0195 35

2. Article Number (Transfer from service label)
7015 1520 0001 1774 1015

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X

☐ Agent
☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
- ☐ Priority Mail Express®
 - ☐ Registered Mail™
 - ☐ Adult Signature Restricted Delivery
 - ☒ Certified Mail®
 - ☐ Certified Mail Restricted Delivery
 - ☐ Collect on Delivery
 - ☐ Collect on Delivery Restricted Delivery
 - ☐ Return Receipt for Merchandise
 - ☐ Signature Confirmation™
 - ☐ Restricted Delivery

Domestic Return Receipt



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

ANDY BESHEAR
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601

August 8, 2017

Mr. Chris Claxon
American health Center of Grayson
186 Interstate Drive
Grayson, KY 41143

RE: 2016-2017 & 2017-2018 Health Spa Registration Renewal
American health Center of Grayson, 186 Interstate Drive, Grayson, KY 41143

Dear Mr. Claxon,

As you know, under KRS 367.905 you are required to register your health spa with the Office of the Attorney General every year on or before July 1. Your health spa may also be required to file a bond under KRS 367.906. Fitness World failed to register and post a bond for both the 2016-2017 and 2017-2018 year.

The Office of the Attorney General intends to file suit seeking a permanent injunction and civil penalties if the registrations for both years are not received by August 21, 2017. Please do not hesitate to contact me if you have any questions.

Sincerely,

ANDY BESHEAR, ATTORNEY GENERAL

Leah Cooper Boggs
Assistant Attorney General
Office of Consumer Protection
502-696-5389
Leah.boggs@ky.gov