

DANIEL M. HERRIGAN
IN THE COURT OF COMMON PLEAS
2014 MAY 15 SUMMIT COUNTY, OHIO

SUMMIT COUNTY
CLERK OF COURTS

STATE OF OHIO, ex rel.
MICHAEL DEWINE
ATTORNEY GENERAL OF OHIO
Consumer Protection Section
615 West Superior Avenue, 11th FL
Cleveland, Ohio 44113-1899

Plaintiff,

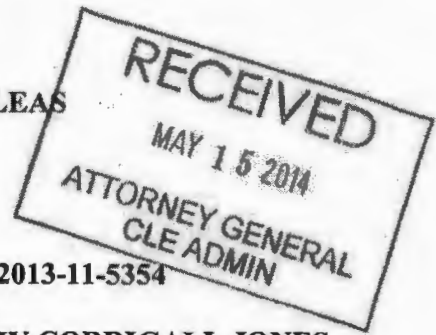
-vs-

WAYNE GIVEN D/B/A
BASEMENT WATERPROOFING
SOLUTIONS
3109 Harriet
Silver Lake, Ohio

Defendant.

CASE NO. 2013-11-5354

JUDGE AMY CORRIGALL JONES



RECEIVED
ATTORNEY GENERAL OF OHIO

JUL 10 2014

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

**DEFAULT JUDGMENT ENTRY AND ORDER AGAINST
DEFENDANT WAYNE GIVEN**

This cause came to be heard upon Plaintiff's Motion for Default Judgment Against Defendant Wayne Given pursuant to Civil Rule 55(A). Defendant was properly served and has failed to answer or otherwise plead or defend against this motion or appear before the Court. The Court finds the motion well taken and hereby grants and sustains Plaintiff's Motion for Default Judgment. The Court, based on that motion and Plaintiff's Complaint, hereby renders the following Default Judgment Entry and Order.

FINDINGS OF FACT

1. Defendant Wayne Given, doing business as Basement Waterproofing Solutions, a fictitious name which is not registered with the Ohio Secretary of State, has solicited consumers for basement waterproofing repairs and services in Summit County, Ohio. Defendant Given has personally allowed, directed, ratified or caused the unlawful acts or practices described herein.

2. Defendant Given has accepted payments for basement waterproofing repairs, has failed to provide those ordered services and repairs, and failed to refund consumers' monies. Defendant has unjustifiably delayed repayment of legitimate consumer claims for refunds for numerous months, and has failed to provide consumers with the basement waterproofing repairs and services for which Defendant accepted payment from consumers.

CONCLUSIONS OF LAW

The Court has jurisdiction over the subject matter, issues and parties to this action and venue is proper.

1. The business practices of the Defendant as described herein and in Plaintiff's Complaint are governed by the Consumer Sales Practices Act, R.C. 1345.01 et seq.

2. The Ohio Attorney General, acting on behalf of the citizens of Ohio, and in the best interests of this state, is the proper party to commence this action under the authority of the Ohio Consumer Sales Practices Act, R.C.1345.07, and by virtue of his authority to protect the interest of the citizens of the State of Ohio.

3. Defendant Given is a "supplier" as that term is defined in R.C. 1345.01(C), as he was engaged in the business of offering basement waterproofing services and repairs for a fee in Summit County and other areas throughout the State of Ohio within the meaning of R.C. 1345.01(A).

4. Defendant has committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) and Ohio Administrative Code 109:4-3-09(A)(2) (Failure to Deliver), by accepting monetary amounts for basement waterproofing services and then failing to deliver those services to consumers and failing to refund the consumers' money within eight weeks.

5. Defendant has committed unfair and deceptive acts and practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) by performing substandard work and then failing to correct such work.

WHEREFORE, this Court ORDERS that:

1. Each act or practice of which Plaintiff complains violates the Ohio Consumer Sales Practices Act in the manner set forth in the Complaint.

2. Defendant Given and his agents, representatives, salesmen, employees, successors and assigns and all persons acting in concert or participation with Defendant Given, directly or indirectly, are PERMANENTLY ENJOINED from engaging in the acts or practices in violation of the Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq.

3. Defendant Given and his agents, representatives, salesmen, employees, successors and assigns and all persons acting in concert or participation with Defendant Given, directly or indirectly, are PERMANENTLY ENJOINED from engaging in business in the State of Ohio as a supplier until all judgment ordered remuneration is paid, including any outstanding unsatisfied judgment arising out of a prior consumer transaction; and are further enjoined from engaging in the acts and practices of which Plaintiff complains.

4. Defendant Given is ORDERED to maintain in his possession and control for a period of five (5) years all business records relating to Defendant's solicitation or effectuation of business in Ohio and to permit the Ohio Attorney General or his representative, upon reasonable, twenty-four (24) hour notice, to inspect and/or copy any and all of said records, however stored, and further it is ORDERED that copies of such records be provided at Defendant's expense to the Ohio Attorney General upon request of the Ohio Attorney General or his representatives;

5. Defendant Given is liable for consumer restitution in the amount of Twenty Six Thousand, Three Hundred and Fifty Seven Dollars (\$26,357.00) to those eight consumers listed in Addendum "A", in those amounts. Defendant is ORDERED to make full payment to the Ohio Attorney General for distribution to those consumers.

6. Defendant Given is ASSESSED, FINED and Imposed upon civil penalties in the amount of Twenty Five Thousand Dollars for the independent violations of CSPA, in regard to those eight consumers, pursuant to R.C. 1345.07(D).

7. Plaintiff is GRANTED his costs in bringing this action.
8. Defendant Given is ORDERED to pay all costs associated with this action.

IT IS SO ORDERED. FINAL ENTRY.

DATE

JUDGE

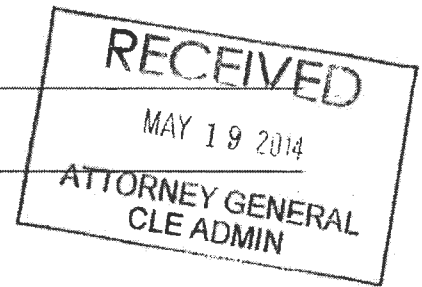
IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

CASE NUMBER: CV-2013-11-5354

STATE OF OHIO EX REL vs WAYNE GIVEN

Judge: AMY CORRIGALL JONES

ORDER FILED: 05/14/2014



NOTICE

TO: THOMAS D. MCGUIRE
615 W. SUPERIOR AVE
12TH FLOOR
CLEVELAND, OH 44113

Pursuant to Civil Rule 58(B), the Clerk Of Courts is required to notify you the the following order
has been filed with our office:

DEFAULT JUDGMENT ENTRY AND ORDER AGAINST DEFENDANT WAYNE GIVEN. ACJ

05/15/2014

Daniel M. Horrigan
Summit County Clerk Of Courts