

ORIGINAL

IN THE COURT OF COMMON PLEAS  
FAIRFIELD COUNTY, OHIO

FILED

2014 MAY 21 AM 8:12

CLERK OF COURTS  
FAIRFIELD CO. OHIO

STATE OF OHIO, ex rel. )  
MICHAEL DEWINE )  
ATTORNEY GENERAL OF OHIO )  
 )  
PLAINTIFF, )  
v. )  
 )  
ROGER CONRAD JR., )  
 )  
DEFENDANT. )

Case No. 13 CV 038

JUDGE R. BERENS

CONSENT JUDGMENT AND  
AGREED FINAL ENTRY AND ORDER

PREAMBLE

This matter came to be heard upon the filing of a Complaint by Plaintiff, The State of Ohio ex rel. Attorney General Michael DeWine ("Plaintiff" or "Attorney General"), alleging that Defendant Roger Conrad Jr. ("Defendant") violated the Consumer Sales Practices Act, R.C. 1345.01 et seq. The parties have agreed to settle and resolve the matters contained herein. By signing this Consent Judgment and Agreed Final Entry and Order (hereinafter "Agreed Order"), Defendant submits to the personal jurisdiction of this Court, consents to the Court's findings of fact and conclusions of law, consents to the entry of this Agreed Order pursuant to R.C. 1345.07(F), and consents to the rights of the Attorney General to enforce this Agreed Order.

FINDINGS OF FACT

1. Defendant Roger Conrad Jr. is an individual who is last known to operate his business at 755 Pump Station Road, Sugar Grove, OH 43155.
2. Defendant failed to register his business C&R Concrete with the Ohio Secretary of State.
3. Defendant Conrad directed, supervised, approved, formulated authorized, ratified, benefitted from and/or otherwise participated in the day to day activities of the business entity known as C&R Concrete.

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ATTORNEY GENERAL OF OHIO

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4. Defendant Conrad operated, dominated controlled, and directed the business activities of C&R Concrete, causing, personally participating in, and/or ratifying the acts and practices of C&R Concrete as described herein.
5. Defendant is, and has been at all times relevant to this action, engaged in the selling of consumer goods or services, specifically the installation of custom concrete on the exteriors of consumers' residential properties to consumers in the state of Ohio.
6. Defendant entered into and executed contracts to provide these home improvement goods and services.
7. At the time of the transactions, Defendant Conrad met with at their homes to provide an estimate for the repairs or services needed for consumers' residential homes.
8. At the time of the transactions, and prior to any work being completed, Defendant failed to provide consumers with a written form which included language explaining the consumer's right to a written estimate.
9. At the time of the transaction, and prior to any work being completed, Defendant failed to provide consumers with a written form that indicated the reasonably anticipated completion date.
10. At the time of the transaction, and prior to any work being completed, Defendant failed to provide consumers with a list of the parts or materials, the amount charged for labor, and the identity of the individuals performing the repair or service.
11. At the time of the transaction, and prior to any work being completed, Defendant failed to provide consumers with proper notice of a three day right of rescission.

### CONCLUSIONS OF LAW

12. The Court has jurisdiction over the subject matter, issues and parties to this Consent Judgment pursuant to R.C. 1345.04.
13. The Court has venue to hear this case pursuant to Ohio Civ. R. 3 in that some of the transactions complained of herein, and out of which this action arose, occurred in Fairfield County.
14. Plaintiff is the proper party to commence these proceedings under the authority of R.C. 1345.07, and by virtue of his statutory and common law authority to protect the interests of the citizens of the State of Ohio.
15. Defendant is a "supplier," as that term is defined in R.C. 1345.01(C), as Defendant was, at all relevant times herein, engaged in the business of effecting consumer transactions with individuals in Ohio for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).
16. A supplier commits unfair and deceptive acts and practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) when the supplier performs home repairs or improvement services in an incomplete, shoddy, or unworkmanlike manner.
17. Defendant committed unfair and deceptive acts or practices in violation of R.C. 1345.02(A) by failing to register C&R Concrete as a trade name with the Ohio Secretary of State as required by R.C. 1703.03.
18. Defendant committed unfair and deceptive acts or practices in violation of R.C. 1345.02(A) and Ohio Adm. Code 109:4-3-05(A) by failing to provide the consumer with a written estimate choice language form at the time of the initial face to face contact or

prior to the commencement of any repair or service and by failing to provide the consumer with a form that indicated the reasonably anticipated completion date.

19. Defendant committed unfair and deceptive acts or practices in violation of R.C. 1345.02(A) and Ohio Adm. Code 109:4-3-05(D)(12) by failing to provide the Consumer with a written itemized list of repairs performed or services rendered, including a list of parts or materials, the amount charged for labor, and the identity of the individual performing the repair or service.
20. Defendant has violated the Home Solicitation Sales Act, R.C. 1345.23 by failing to give proper notice to consumers of their right to cancel their contracts by a specific date.

#### **ORDER**

#### **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. Plaintiff State of Ohio ex rel. Attorney General Michael DeWine's request for a Declaratory Judgment is GRANTED; and it is therefore DECLARED that the acts and practices enumerated in the Conclusions of Law set forth above violated the Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq. in the manner set forth therein.
2. Defendant Conrad, his officers, partners, agents, representatives, salespersons, employees, independent contractors, successors, assigns and all other persons acting on behalf of the Defendant directly or indirectly, through any corporate device or private device partnership or association in connection with any consumer transaction including any person or entity which purchases any interest in the business and continues to operate the business are hereby PERMANENTLY ENJOINED from engaging in practices that violate the Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq.

3. It is ORDERED that Defendant Conrad shall provide consumer restitution in the form of driveway repairs for consumer Burton Ziels, and \$700 in requested restitution for consumer John Coen, as further outlined in paragraphs 4 and 5.
4. Per Defendant Conrad's agreement with consumer Burton Ziels, Defendant Conrad will fix the consumer's concrete work in early 2014. Full performance of these services for Mr. Ziels is ORDERED by June 1, 2014. The Ohio Attorney General's Office reserves the right to monetary restitution for Mr. Ziels if it determines that the Defendant has failed to meet this deadline.
5. The \$700 restitution payment for John Coen is due upon execution of this Agreed Order. Payments shall be made by certified check or money order, be made payable to the "Ohio Attorney General" and addressed to:

Compliance Officer  
30 East Broad Street, 14<sup>th</sup> Floor  
Columbus, OH 43215

6. It is further ORDERED that, pursuant to R.C. 1345.07(D), Defendant is assessed a civil penalty of Ten Thousand Dollars (\$10,000.00), with Seven Thousand Five Hundred Dollars suspended (\$7500). If Defendant fails to comply with all provisions in this Consent Judgment for any reason, including the payment provisions, the Seven Thousand Five Hundred Dollars (\$7500) in civil penalties shall be due and payable upon demand.
7. Defendant shall pay Five Hundred Dollars (\$500) upon the execution of this Agreed Order. The remaining Two Thousand Dollars (\$2000) shall be due in monthly installments of at least \$223.23 per month for 10 months on the first day of each month starting in June, 2014 (such payments shall not be deemed delinquent unless received after the 10<sup>th</sup> day of each calendar month). This payment plan has been agreed to based

on the Defendant's representation of financial insolvency. Plaintiff has relied on upon this representation. All payments shall be made by certified check or money order, be made payable to the "Ohio Attorney General" and addressed to:

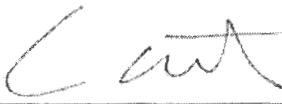
Compliance Officer  
30 East Broad Street, 14<sup>th</sup> Floor  
Columbus, OH 43215

8. It is further ORDERED that if the Defendant fails to deliver any payment due hereunder to the Attorney General in accordance with the payment schedule ordered herein, or if the Defendant fails to perform any of the obligations agreed to in this Consent Judgment, all remaining payments shall be immediately become due and payable hereunder.
9. It is further ORDERED that the Defendant shall maintain in his possession and control for a period of five (5) years all business records relating to Defendant's installation of custom concrete and shall permit the Ohio Attorney General or his representative, upon reasonable twenty-four (24) hour notice to inspect and/or copy any and all records.
10. It is further ORDERED that in the event the Ohio Attorney General must initiate legal action or incur any costs to compel Defendant to abide by this Agreed Order, upon proof of the violation, Defendant shall be liable to the Ohio Attorney General for any such costs associated with proving that violation, including, but not limited to, a reasonable sum for attorneys' fees.
11. It is further ORDERED that nothing in this Agreed Order shall in any way preclude any investigation or enforcement actions against Defendant under any legal authority granted to the State for transactions not subject to this action.

12. It is further ORDERED that the Defendant shall not represent, directly or indirectly, that the Court or the Ohio Attorney General have sanctioned, condoned, or approved any part or aspect of the Defendant's business operations.
13. This Court shall retain jurisdiction to enforce compliance with this Agreed Order.
14. Defendant is ORDERED to pay all court costs.

**IT IS SO ORDERED.**


\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
*For* JUDGE BERENS

The Court hereby ORDERS  
the Clerk to serve notice of this  
Entry pursuant to Civil Rule 5  
upon all parties not in default.

Respectfully submitted,

MICHAEL DEWINE  
Attorney General

  
\_\_\_\_\_  
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*Counsel for Plaintiff*