

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

STATE OF OHIO, ex rel.	)	Case No. 2014 CV 006612
ATTORNEY GENERAL	)	
MICHAEL DEWINE	)	JUDGE DAVID FAIS
	)	MAGISTRATE THOMPSON
Plaintiff,	)	
	)	<b><u>FINAL JUDGMENT</u></b>
v.	)	<b><u>ENTRY AND ORDER</u></b>
	)	
CLIFFORD DUFF	)	
DBA A1 BRICK WORK	)	
	)	
Defendant.	)	

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The Plaintiff commenced this action on June 25, 2014 by filing its Complaint and Request for a Declaratory Judgment, Injunctive Relief, Consumer Restitution, and Civil Penalties against Defendant Clifford Duff. The Complaint alleged violations of the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq., its Substantive Rules, Ohio Administrative Code ("O.A.C.") 109:4-3-01 et seq., and the Home Solicitation Sales Act ("HSSA"), R.C. 1345.21 et seq. Service was perfected on Defendant Duff on July 18, 2014.

Plaintiff filed a Motion for Default Judgment, and this Court issued a Default Judgment Entry and Order against Defendant on September 29, 2014. The Default Judgment included declaratory and injunctive relief and provided that civil penalties and consumer restitution would be determined at a subsequent hearing.

On December 3, 2014, Plaintiff filed a Memorandum in Support of Damages and Other Requested Relief ("Damages Memo"), in which Plaintiff submitted evidence supporting the amount of civil penalties and consumer damages that Plaintiff requested. A **Damages Hearing** was held before this Court on December 5, 2014.

**RECEIVED**  
ATTORNEY GENERAL OF OHIO

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CONSUMER PROTECTION SECTION  
PUBLIC INSPECTION FILE

In support of its request for consumer damages, Plaintiff attached six (6) consumer affidavits, which attest to the damages suffered in its Damages Memo. The evidence established that the consumers sustained monetary damages in connection with the Defendant's soliciting and selling of his home improvement services.

The Court finds that the consumers sustained damages in in the amount of Six Thousand, Nine Hundred Eighty-Five Dollars (\$6,985.00).

In its Damages Memo, Plaintiff also explained the basis for the amount of civil penalties requested. Plaintiff's request was made pursuant to the CSPA, R.C. 1345.07(D). Plaintiff provided evidence of the Defendant's violations of the CSPA, which pursuant to R.C. 1345.07(D), permit the imposition of a civil penalty. The Court finds Plaintiff's request for a civil penalty in the amount of Ten Thousand (\$10,000) well-taken.

**Based on the above, the Court completely reinstates below the Findings of Facts, Conclusions of Law, and Orders that were originally included in the Court's Default Judgment, and also issues new orders based on the evidence presented via the Plaintiff's Damages Memo and at the Damages Hearing:**

**FINDINGS OF FACT**

1. The actions of Defendant occurred in Franklin County and other counties in Ohio.
2. Defendant Clifford Duff ("Duff") is a natural person, and although his current address is unknown, his last known address was 613 Nashoba Avenue, Columbus, Ohio 43223.
3. At all times relevant to this action, Defendant Duff used the fictitious name A1 Brick Work.
4. At all times relevant to this action, Defendant Duff engaged in the business of advertising, soliciting, offering, and selling home improvement services as A1 Brick Work.

5. Defendant solicited, offered, and sold his home improvement services by going to consumers' residences.
6. At the time of the transaction, Defendant failed to inform and provide consumers with a notice of their three day right to cancel.
7. At the time of the transaction, Defendant failed to provide consumers with a written form that indicated the reasonably anticipated completion date.
8. Defendant accepted full payments from consumers for home improvement services, and then failed to begin or complete the services for which consumers paid.
9. After accepting consumers' payments and failing to deliver the services, Defendant failed to issue refunds to consumers.
10. Defendant conducted business in the State of Ohio using a fictitious business name that Defendant never registered with the Ohio Secretary of State.

#### **CONCLUSIONS OF LAW**

11. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
12. This Court has venue to hear this case pursuant to Ohio Civ. R. 3 (B)(3) in that Franklin County is a location where the Defendant conducted activity that gave rise to the claim for relief.
13. The Ohio Attorney General is the proper party to commence these proceedings under the authority provided to him under the CSPA, R.C. 1345.07.
14. Defendant is a "supplier" as the term is defined in the CSPA, R.C. 1345.01(C), as Defendant, at all times relevant herein, engaged in the business of effecting consumer transactions by

soliciting and providing services to individuals for purposes that were primarily for personal, family, or household use, within the meaning specified in R.C. 1345.01(A) and (D).

15. Defendant committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02 and O.A.C. 109:4-3-09(A)(2) by accepting money from consumers for home improvement services and permitting eight weeks to elapse without delivering the contracted services or making a full refund.
16. Defendant committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by performing home improvement services in an incomplete, shoddy, or unworkmanlike manner.
17. Defendant committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A) and the Repairs and Services Rule, O.A.C. 109:4-3-05(A)(1), by failing to provide consumers with a written form indicating the anticipated completion date.
18. Defendant committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by failing to register with the Ohio Secretary of State his use of a fictitious business name, as required by R.C. 1329.01.
19. Defendant committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A) and the HSSA, R.C. 1345.23, by failing to provide notice to consumers of their right to cancel their contract by a specific date.

**THEREFORE IT IS ORDERED, ADJUDGED, AND DECREED THAT:**

- A. Plaintiff's request for Declaratory Judgment is GRANTED, and it is therefore DECLARED that the acts and practices set forth above violate the CSPA, R.C. 1345.01 et seq., the O.A.C. 109:4-3-01 et seq., and the HSSA, R.C. 1345.21 et seq. in the manner set forth herein.

- B. Defendant, under his own name or any other name, his agents, representatives, salespeople, employees, successors, and assigns, and all persons acting on behalf of Defendant, directly or indirectly, through any corporate or private device, partnership or association, is PERMANENTLY ENJOINED from engaging in the acts or practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 et seq., the O.A.C. 109:4-3-01 et seq., and the HSSA, R.C. 1345.21 et seq.
- C. Defendant is 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 judgments arising out of a prior consumer transaction.
- D. Defendant is ORDERED to pay consumer damages to the Ohio Attorney General in the total amount of Six Thousand, Nine Hundred Eighty-Five Dollars (\$6,985.00) to be distributed by the Attorney General to the consumers identified in Exhibit 1 to Plaintiff's Damages Memo.
- E. Pursuant to the above finding that Defendant committed unfair and deceptive acts and practices in violation of the CSPA, Defendant is ORDERED to pay a civil penalty to the Ohio Attorney General in the amount of Ten Thousand Dollars (\$10,000.00).
- F. Defendant is ORDERED to pay all court costs.

**IT IS SO ORDERED.**

\_\_\_\_\_  
DATE

\_\_\_\_\_  
JUDGE FAIS

Prepared by:

MICHAEL DEWINE  
ATTORNEY GENERAL

/s/ Brittany M. Steele  
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**To Franklin County Clerk of Court:**

Please serve signed copies of the FINAL JUDGMENT ENTRY AND ORDER to:

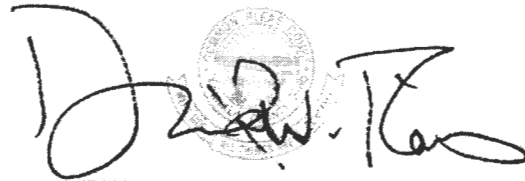
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Clifford Duff  
613 Nashoba Avenue  
Columbus, Ohio 43223

Franklin County Court of Common Pleas

**Date:** 01-05-2015  
**Case Title:** OHIO STATE ATTORNEY GENERAL MICHAEL DEWI -VS-  
CLIFFORD DUFF  
**Case Number:** 14CV006612  
**Type:** JUDGMENT ENTRY

It Is So Ordered.

A handwritten signature in black ink, appearing to read "D. W. Fais", is written over a circular, faded seal of the Franklin County Court of Common Pleas. The signature is fluid and cursive.

/s/ Judge David W. Fais