

**RECEIVED**  
ATTORNEY GENERAL OF OHIO

**IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO**

FEB 01 2017

CONSUMER PROTECTION SECTION

STATE OF OHIO ex rel.  
OHIO ATTORNEY GENERAL  
MICHAEL DEWINE

CASE NO. 16 CV 001540  
PUBLIC INSPECTION FILE

Plaintiff,

JUDGE DAVID CAIN

v.

**FINAL JUDGMENT**  
**ENTRY AND ORDER**

JOHN MAMMOSSER, individually  
and dba FIRST CLASS INTERIORS

Defendant.

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The Plaintiff, State of Ohio, commenced this action on February 11, 2016 by filing its Complaint and Request for Declaratory Judgment, Injunctive Relief, Consumer Restitution, and Civil Penalties against Defendant John Mammosser dba First Class Interiors. The Complaint alleged violations of the Consumer Sales Practices Act, R.C. 1345.01 et seq. ("CSPA") and the Home Solicitation Sales Act, R.C. 1345.23 et seq. ("HSSA"). The Defendant was served on July 15, 2016 and failed to respond within the twenty-eight days allotted under the rules. Defendant has also failed to make any appearance in this action.

On August 26, 2016, Plaintiff filed a Motion for Default Judgment, which the Court granted on August 30, 2016. The Default Judgment ordered the Defendant to pay civil penalties and restitution to consumers that suffered damages as a result of Defendant's conduct. The amount of Defendant's responsibility for civil penalties and consumer damages was set to be determined at a later date by affidavits, in lieu of live testimony.

On October 3, 2016, Plaintiff filed a Memorandum in Support of Damages and Civil Penalties ("Damages Memo"), in which Plaintiff submitted evidence supporting the amount of

civil penalties and consumer damages that Plaintiff was requesting. In support of its request for consumer damages, Plaintiff attached to its Damages Memo four consumer affidavits, which attest to the damages suffered by those consumers. The affidavit evidence established that each of the consumers sustained monetary damages in connection with Defendant's home improvement business. The Court finds that each consumer sustained individual damages in the amounts set forth in the Consumer Damages List, totaling \$28,753. (Plaintiff's Damages Memo, Exhibit 1).

In addition to consumer restitution, Plaintiff also requested the Court impose a \$25,000 civil penalty on the Defendant. Plaintiff's request was made pursuant to R.C. 1345.07(D), which allows the Court to impose up to \$25,000 in civil penalties upon the Defendant for each distinct violation of the CSPA. The Court finds the Plaintiff's request for a civil penalty in the amount of \$25,000 well-taken.

**Based on the above, the Court renders the following FINAL JUDGMENT ENTRY AND ORDER against the Defendant.**

**FINDINGS OF FACT**

1. Defendant John Mammosser is a natural person residing at 1038 Meda Avenue, Lancaster, Ohio 43130.
2. At all times relevant to this action, Defendant John Mammosser was the sole owner and operator of First Class Interiors, a business located at 936 Meda Avenue, Lancaster, Ohio 43130.
3. Defendant's business, First Class Interiors, is not registered with the Ohio Secretary of State.

4. Defendant has also conducted business under the names Precise Pools and Smilemaker Hardwoods, neither of which are registered with the Ohio Secretary of State.
5. Defendant accepted payment from consumers for the purchase of home improvement goods and services, such as materials and installation services for kitchens, bathrooms, and flooring, and failed to deliver some of those goods and services within eight weeks.
6. Despite numerous requests from consumers, Defendant has refused to provide refunds.
7. After receiving payment, Defendant would often begin to work in a consumer's home but fail to complete the contracted job.
8. Defendant provided shoddy and substandard home repair services to consumers and then failed to correct such services.
9. At the time of the transactions, Defendant had three unsatisfied judgments in Franklin County arising out of previous consumer transactions.
10. At the time of the transactions, Defendant failed to provide consumers with proper notice of cancellation forms describing the consumers' right to cancel the transactions.

### **CONCLUSIONS OF LAW**

11. The actions of Defendant have occurred in the State of Ohio; in Franklin County and other counties in Ohio, and are in violation of the CSPA, R.C. 1345.01 et seq., its Substantive Rules, and the HSSA, R.C. 1345.21 et seq.
12. The Attorney General, acting on behalf of the State of Ohio and in the public interest, is the proper party to this action by virtue of the authority vested in the Attorney General by R.C. 1345.07 of the CSPA.
13. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.

14. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3) in that some of the transactions complained of herein, and out of which this action arose, occurred in Franklin County, Ohio.
15. Defendant is a “supplier” as that term is defined in R.C. 1345.01(C) as Defendant was, at all times relevant herein, engaged in the business of effecting consumer transactions either directly or indirectly by soliciting and selling goods or services to consumers in Franklin County and other counties in Ohio for purposes that were primarily for personal, family, or household use within the meaning specified in R.C. 1345.01(A) and (D).
16. Defendant engaged in “home solicitation sales” as that term is defined in the HSSA, R.C. 1345.21(A), as he engaged in personal solicitations at the residences of consumers, including solicitations in response to or following invitations by consumers.
17. Defendant committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) and Ohio Admin. Code 109:4-3-09(A), by accepting payments from consumers, promising delivery dates for goods, failing to deliver the goods, and failing to return payments to the consumers.
18. Defendant committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by performing home improvement services in an incomplete, shoddy, or substandard manner, and then failing to correct or complete such work.
19. Defendant committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by failing to register or report his use of a fictitious business name to the Ohio Secretary of State as required by R.C. 1329.
20. Defendant committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by engaging in consumer transactions while having unsatisfied

judgments and legal obligations owed to three consumers arising out of previous consumer transactions.

21. Defendant violated the HSSA, R.C. 1345.23 and R.C. 1345.02(A), by failing to give proper 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 in the manner described herein.
- B. Defendant, his agents, servants, employees, successors or assigns, and all persons acting in concert and participation with him, directly or indirectly, through any corporate device, partnership, or other association, under these or any other names, are **PERMANENTLY ENJOINED** from engaging in the acts and practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 et seq.
- C. Defendant is **ORDERED** to pay consumer restitution in the amount of \$28,753. Such payment shall be made within seven days to the Attorney General via certified check or money order payable to the "Ohio Attorney General" and delivered to:

Ashley Miller  
Consumer Protection Section  
Office of the Ohio Attorney General  
30 East Broad Street, 14th Floor  
Columbus, Ohio 43215

The consumer damages will be distributed by the Attorney General to the following consumers in the amounts set forth below:

LAST	FIRST	CITY	STATE	ZIP	AMOUNT
Anthony	Priscilla	Carroll	OH	43112	\$2,550
Hansel	Wendy	Columbus	OH	43202	\$17,915
Shepard	Katie	Worthington	OH	43085	\$788
Schall	Andrew	New Albany	OH	43054	\$7,500

- D. Based on the above findings that Defendant committed unfair and deceptive acts and practices in violation of the CSPA, Defendant is **ORDERED** to pay a civil penalty in the amount of \$25,000, pursuant to R.C. 1345.07(D). Such payment shall be made within seven days to the Attorney General via a certified check or money order payable to the "Ohio Attorney General" and delivered to:

Ashley Miller  
Consumer Protection Section  
Office of the Ohio Attorney General  
30 East Broad Street, 14th Floor  
Columbus, Ohio 43215

- E. Defendant is **ENJOINED** from engaging in business as a supplier<sup>1</sup> in any consumer transactions in the State of Ohio, until such time as he has satisfied all monetary obligations assessed at the damages hearing.
- F. Defendant is **ORDERED** to pay all court costs.

**IT IS SO ORDERED.**

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DATE

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JUDGE CAIN

Submitted by:

*/s/ Hallie C. Saferin*

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HALLIE C. SAFERIN (0093467)  
Assistant Attorney General  
Consumer Protection Section  
30 East Broad Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215  
614-466-9529  
Hallie.Saferin@ohioattorneygeneral.gov  
*Counsel for Plaintiff, State of Ohio*

TO THE CLERK, PLEASE SERVE ON THE FOLLOWING:

John Mammosser  
1038 Meda Avenue  
Lancaster, OH 43130

*Defendant*

Franklin County Court of Common Pleas

**Date:** 10-05-2016

**Case Title:** OHIO STATE ATTORNEY GENERAL MICHAEL DEWI -VS-  
JOHN MAMMOSSER

**Case Number:** 16CV001540

**Type:** JUDGMENT ENTRY

It Is So Ordered.

  


/s/ Judge David E. Cain