

**STATE OF OHIO  
OFFICE OF THE ATTORNEY GENERAL  
CONSUMER PROTECTION SECTION**

IN THE MATTER OF: ) DOCKET NO. 523846  
 )  
Christopher Kuntz, individually, and )  
d.b.a. American Structural Systems )  
 )

**ASSURANCE OF VOLUNTARY COMPLIANCE**

This Assurance of Voluntary Compliance ("Assurance") is entered into this 17<sup>th</sup> day of January, ~~2016~~ <sup>2017</sup> between Christopher Kuntz, individually, and doing business as American Structural Systems, ("Supplier") and the Attorney General of the State of Ohio ("Attorney General").

**WHEREAS**, the Attorney General, having reasonable cause to believe that the Supplier has engaged in acts and practices which violate Chapter 1345 of the Revised Code ("Consumer Sales Practices Act") has conducted an investigation pursuant to the authority granted him by R.C. 1345.06 of the Revised Code; and

**WHEREAS**, the Attorney General may, pursuant to R.C. 1345.06(F), enter into and accept an Assurance of Voluntary Compliance; and

**WHEREAS**, this Assurance of Voluntary Compliance is an assurance in writing by Supplier of his intent to conduct his business in a manner designed to comply with the provisions of the Consumer Sales Practices Act, and its Substantive Rules; and

**WHEREAS**, Supplier desires to comply with all aspects of the Consumer Sales Practices Act, and its Substantive Rules, Supplier hereby voluntarily enters into this Assurance with the Attorney General.

**RECEIVED**  
**ATTORNEY GENERAL OF OHIO**

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**NOW THEREFORE**, in consideration of the mutual promises and conditions set forth herein, the parties hereto **AGREE** as follows:

- (1) The "Effective Date" shall mean the date indicated on the first page of this Assurance.
- (2) By accepting this written Assurance, the Attorney General agrees to terminate the current civil investigation under the Consumer Sales Practices Act of Supplier's business practices and actions occurring on or before the Effective Date of this Assurance.
- (3) By giving this written Assurance, Supplier agrees to comply with all the terms of this Assurance and to conduct his business in compliance with all applicable Ohio laws, including without limitation, the Consumer Sales Practices Act.

#### **BACKGROUND AND STATEMENT OF FACTS**

- (4) Christopher Kuntz is an Ohio resident residing at 8575 Old Carriage Trail, Cincinnati, Ohio 45242.
- (5) American Structural Systems is a fictional name not registered with the Ohio Secretary of State.
- (6) Supplier operates a home foundation repair business that engaged in the business of effecting consumer transactions by selling and performing home foundation repairs in the State of Ohio.
- (7) Supplier is a "supplier" as that term is defined in R.C. 1345.01(C), because he engaged in the business of effecting or soliciting consumer transactions, by offering for sale or selling of home foundation repairs to individuals for purposes that are primarily personal, family or household within the meaning specified in R.C. 1345.01(A).
- (8) Supplier is a "seller" engaged in the business of effecting home solicitation sales by soliciting and selling home improvements to "buyers" at the buyers' personal residences

in the State of Ohio for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.21(A) and (E).

- (9) Supplier solicited consumers and accepted payments for home improvement goods and services within multiple counties in Ohio, including Hamilton County.
- (10) Supplier solicited and sold home improvement goods and services at the residences of buyers.
- (11) Supplier did not notify consumers of their cancellation rights nor did he provide consumers with a notice of cancellation.
- (12) Supplier's contract states "All work performed will be guaranteed for the life of the structure against any defect in workmanship or material."
- (13) Supplier performed substandard, shoddy, and incomplete work and failed to fix or complete the substandard, shoddy, and incomplete work.
- (14) Supplier committed unfair and deceptive acts and practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A), by performing substandard, shoddy, and incomplete work and then failing to correct such work.
- (15) Supplier committed unfair and deceptive acts and practices in violation of the Consumer Sales Practices Act and the Home Solicitation Sales Act, R.C. 1345.23, by failing to give proper notice to consumers of their right to cancel their contract by a specific date and by failing to give consumers a cancellation form.

#### **COMPLIANCE PROVISIONS**

- (16) Supplier shall comply with all aspects of the Consumer Sales Practices Act.
- (17) Supplier shall comply with all aspects of the Home Solicitation Sales Act, including but not limited to:

- A. Clearly and conspicuously disclosing on the copy of the contract left with the buyer in bold-face type of the minimum size of ten points, in substantially the following form and in immediate proximity to the space reserved in the contract for the signature of the buyer: "You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation for an explanation of this right."
- B. Attaching a completed form to the signed contract, captioned "notice of cancellation," that complies with R.C. 1345.23 and is easily detachable.

### **GENERAL PROVISIONS**

- (18) Supplier understands and agrees that this Assurance applies to any related owners, principals, officers, directors, agents, servants, representatives, salespersons, employees, instructors, independent contractors, successors and assigns.
- (19) This Assurance shall be governed by the laws of the State of Ohio.
- (20) This Assurance is entered into by Supplier of his own free and voluntary act and with full knowledge and understanding of the nature of the proceedings and the obligations and duties imposed by this Assurance.
- (21) This Assurance does not constitute an approval by the Attorney General of any of Supplier's business practices and neither shall represent directly or indirectly, or in any way whatsoever, that the Attorney General has sanctioned, condoned or approved any part or aspect of Supplier's business practices.
- (22) This Assurance sets forth the entire agreement between the Attorney General and Supplier, and supersedes all prior agreements or understandings, whether written or oral, between the Parties and/or their respective counsel with respect to the subject matter

hereof. This Assurance may be amended by written agreement between the Parties, subject to any further requirements under state law.

- (23) The Parties acknowledge that no other promises, representations or agreements of any nature have been made or entered into by the Parties. The Parties further acknowledge that this Assurance constitutes a single and entire agreement that is not severable or divisible, except that if any provision herein is found to be legally insufficient or unenforceable, the remaining provisions shall continue in full force and effect.
- (24) This Assurance is a public record and shall be maintained in the Public Inspection File.

**PAYMENT TO THE STATE**

- (25) Furthermore, as part of the consideration for the termination of the Attorney General's civil investigation of Supplier under the Consumer Sales Practices Act, R.C. 1345.01 et seq., Supplier shall make a payment to the State of Ohio in the amount \$15,000 to be placed in the Ohio Attorney General's Consumer Protection Enforcement Fund, to be used by the Attorney General as provided by R.C. 1345.51. The Attorney General agrees to suspend \$10,425.33 of this amount on the condition of strict compliance with the terms of this Assurance.
- (26) Supplier shall also pay \$10,425.33 for consumer restitution to be distributed by the Attorney General to the following consumers:
- A. Joe Lewis: \$10,425.33
- (27) Payment of \$2,500 is due upon the execution of this Assurance and shall be submitted to the Attorney General's Office in the form of a certified check made payable to "The Ohio Attorney General." All payments shall be mailed to:

Finance Assistant  
Consumer Protection Section

30 E. Broad Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215

The remaining \$12,500 shall be paid in monthly installments of \$2,500 as follows:

January, 15 2017	2016	\$2,500
February 15, 2017	2017	\$2,500
March 15, 2017	2017	\$2,500
April 15, 2017	2017	\$2,500
May 15, 2017	2017	\$2,500

The Attorney General retains the discretion on how to distribute the payments made to the Attorney General, but commonly distributes consumer restitution first.

**PENALTIES FOR FAILURE TO COMPLY**

- (28) If Supplier fails to timely deliver any payment to the Attorney General's Office or perform any obligation due hereunder, all amounts, including the \$10,425.33 suspended payment referenced in Paragraph (25) above, shall immediately become due and payable hereunder.
- (29) The acceptance of any payment by the Attorney General subsequent to the time it is due or the failure of the Attorney General to insist on strict performance of any order contained within this Assurance, including, but not limited to, the obligation created by the acceleration provision in Paragraph (28) of this Assurance, shall not be construed as a waiver of any of the obligations created by this Assurance.
- (30) The Attorney General may assert any claim that Supplier has violated this Assurance in a lawsuit seeking injunctive and declaratory relief or a separate civil action to enforce this Assurance, or to seek any other relief afforded by law, including attorney fees, investigative costs, and a civil penalty of \$25,000.00 for each separate and appropriate

violation the Attorney General asserts Supplier has committed. In any such action or proceeding, relevant evidence of conduct that occurred before the Effective Date shall be admissible on any material issue, including alleged willfulness, intent, knowledge, contempt or breach, to the extent permitted by law.

- (31) Pursuant to R.C. 1345.06(F), this Assurance is not, and shall not be construed as, evidence of any violation of the Consumer Sales Practices Act or the Substantive Rules adopted thereunder, by Supplier. Evidence of a violation of an Assurance of Voluntary Compliance, though, is prima-facie evidence of an act or practice in violation of the Consumer Sales Practices Act, R.C. 1345.01 et seq., if presented after the violation in an action brought under the Consumer Sales Practices Act, R.C. 1345.01 et seq.
- (32) This Assurance shall in no way exempt Supplier from any other obligations imposed by law, and nothing contained herein shall relieve him of any legal responsibility for any acts or practices engaged in by Supplier other than those acts specifically resolved by this Assurance.
- (33) Nothing in this Assurance shall in any way preclude any investigative or enforcement action against Supplier under any legal authority granted to the Attorney General:
- (a) With respect to the transactions or occurrences which are the subject of this enforcement action, if the terms of this Assurance are not fully obeyed; or
  - (b) With respect to transactions or occurrences which are not the subject of this action.

**WHEREFORE**, the parties hereto affix their signatures in recognition and acceptance of the terms contained herein on this 17<sup>th</sup> day of January, ~~2016~~ <sup>2017</sup>.

**ACCEPTED BY:**

