

IN THE COURT OF COMMON PLEAS
DELAWARE COUNTY, OHIO

STATE OF OHIO, *ex rel.*
MICHAEL DEWINE
ATTORNEY GENERAL OF OHIO

PLAINTIFF,

v.

ELIJAH DECKARD DBA
BUCKEYE PRO

DEFENDANT.

CASE NO. 14 CVH 12 0917

JUDGE EVERETT H. KRUEGER

FINAL JUDGMENT
AND ENTRY

JAN ANTONOPLOS
CLERK

2015 SEP 16 PM 1:27

COMMON PLEAS COURT
DELAWARE COUNTY, OHIO
FILED

The Plaintiff commenced this action on December 18, 2014 by filing its Complaint. Defendant was served by publication on May 22, 2015 pursuant to Civ. R. 4.4. Plaintiff filed a Motion for Default Judgment, and this Court issued a Default Judgment Entry and Order against Defendant on August 17, 2015.

On September 11, 2015, Plaintiff filed a Memorandum in Support of Damages and Other Requested Relief ("Damages Memo"), in which Plaintiff submitted affidavits and 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 each consumer suffered. The evidence established that the consumers sustained monetary damages after Defendant failed to provide the services for which Defendant accepted the consumers' payments.

The Court finds that the consumers sustained damages in the amount of \$17,286.50.

In its Damages Memo, Plaintiff also explained the basis for the amount of civil penalties requested. Plaintiff made the request pursuant to the CSPA, R.C. 1345.07(D) and provided

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evidence of the Defendant's violations of the CSPA which permit the imposition of a civil penalty.

The Court finds Plaintiff's request for a civil penalty in the amount of \$25,000 well-taken, and as such, the Court restates below the Findings of Fact and Conclusions of Law originally included in the Court's Default Judgment Entry and Order of August 17, 2015, and includes herein an order specifying the consumer damages and civil penalties Defendant must pay.

FINDINGS OF FACT

1. Defendant has been, at all times relevant to this action, engaged in the selling of consumer goods or services, specifically home improvement services, under the name of Buckeye Pro.
2. Defendant solicited consumers at their residences for home improvement services ranging from flooring to roofing services.
3. Defendant advertised and represented in his flyers that he was a Better Business Bureau member, despite never being a member.
4. Defendant advertised and represented in his flyers that he was bonded and insured.
5. In at least one instance, Defendant represented to a consumer that he was bonded, but he did not purchase a policy until several months after he entered into the consumer transaction.
6. In at least one instance, Defendant represented to a consumer that he was bonded, but his policy was cancelled prior to him entering into the consumer transaction.

7. In at least one instance, the consumer relied upon Defendant's representations of being bonded in making the decision to hire the Defendant to perform home improvement services.
8. At the time of the transactions, Defendant failed to provide consumers with proper notices of cancellation forms describing the consumers' rights to cancel the transactions.
9. Defendant accepted substantial payments from consumers, but failed to begin or complete the work for which he was paid.
10. In many instances, Defendant provided start dates to consumers, but then failed to show up to perform the work as promised.
11. Consumers contacted the Defendant to begin or complete the work and/or to obtain refunds but the Defendant failed to return the consumers' phone calls.
12. Defendant has continued to engage in consumer transactions despite having a previous judgment that arose from a consumer transaction against him.

CONCLUSIONS OF LAW

1. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Ohio Consumer Sales Practices Act ("CSPA").
2. 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 Delaware County.
3. The Attorney General is the proper party to commence these proceedings under the authority provided under R.C. 1345.01 *et seq.* and by virtue of his statutory and common law authority to protect the interests of the citizens of Ohio.

4. Defendant Elijah Deckard is a "supplier" as that term is defined in R.C. 1345.01(C), since he engaged in the business of effecting "consumer transactions," either directly or indirectly, for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A), (C), and (D) of the CSPA.
5. Defendant engaged in "home solicitation sales" as that term is defined in R.C. 1345.21(A), as Defendant was engaged in personal solicitations at the residences of consumers, including solicitations in response to or following an invitation by the consumers.
6. Defendant committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02 and the Failure to Deliver Rule, 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 promised services or issuing a full refund.
7. 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 unworkmanlike manner, and failing to correct the work.
8. Defendant committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(B)(1) by advertising and falsely representing to consumers that he was bonded and insured.
9. Defendant committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(B)(9) by advertising and falsely representing to consumers that he was a Better Business Bureau member.
10. 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 an unsatisfied judgment and legal obligation owed to a consumer arising out of a previous consumer transaction.

11. Defendant committed acts and practices in violation of HSSA, R.C. 1345.23 and the CSPA, R.C. 1345.02(A), by failing to give a proper notice to consumers of their right to cancel their contracts 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.*, and the O.A.C. 109:4-3-01 *et seq.* in the manner set forth therein.
- 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, are 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.*, and the O.A.C. 109:4-3-01 *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 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 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.

- E. Defendant is ORDERED to pay consumer damages to the Ohio Attorney General in the total amount of \$17,286.50. Such payment shall be made to the Attorney General via certified check or money order payable to "Ohio Attorney General" and delivered to:

Compliance Officer
Consumer Protection Section
Office of the Ohio Attorney General
30 East Broad St., 14th fl.
Columbus, OH 43215

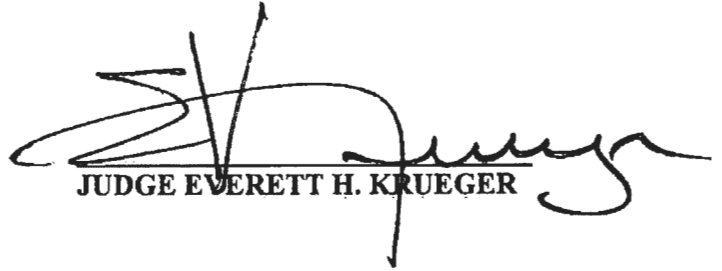
The consumer damages will be distributed by the Attorney General to the consumers in the amounts set forth below:

Robert McNeil	\$4494
Randall Byrne	\$3592.50
Denise Ludwigsan	\$1300
Earl Botkin	\$7900

- F. 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 \$25,000.00, to be delivered to the address listed above in Paragraph E.
- G. Defendant is ORDERED to pay court costs.

IT IS SO ORDERED.

DATE


JUDGE EVERETT H. KRUEGER

This document sent to
each attorney/party by:

☒ ordinary mail
☐ fax
☐ attorney mailbox
☐ certified mail

Date: 9/10/15 By: [Signature]

Prepared by:

MICHAEL DEWINE
Ohio Attorney General

/s/ Brandon C. Duck

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