

IN THE COURT OF COMMON PLEAS
 FRANKLIN COUNTY, OHIO

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

PLAINTIFF,

v.

BL CONCRETE
 CONSTRUCTION, LLC, ET AL.,

DEFENDANTS.

CASE NO. 15CV008819

JUDGE CHRIS M. BROWN

FINAL JUDGMENT
ENTRY AND ORDER

Plaintiff commenced this action with the filing of its Complaint on October 5, 2015. The Complaint alleged violations of the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq. and its Substantive Rules, the Ohio Administrative Code ("O.A.C.") 109:4-3-01 et seq. Defendants were successfully served by certified mail on January 14, 2016. Defendants were properly served and failed to answer the Complaint or otherwise plead. Defendants have failed to make any appearance in this action.

Plaintiff moved for default judgment on May 2, 2016. On June 14, 2016, the Court issued a Default Judgment Entry and Order ("Default Judgment Order"). The Default Judgment Order included an order that Defendants pay civil penalties and restitution to all consumers injured by Defendants' conduct, in an amount to be determined at a later date via affidavits. A damages hearing was scheduled for this case for July 14, 2016 at 1:30 PM, and rescheduled at Plaintiff's request to August 10, 2016 at 1:30 PM. The Magistrate issued his decision on August 16, 2016 and Defendants filed no objections to this decision.

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 ATTORNEY GENERAL OF OHIO

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CONSUMER PROTECTION SECTION
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On August 9, 2016, 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 was requesting.

In support of its request for consumer damages, Plaintiff attached to its Damages Memo six consumer affidavits (Exhibits 2-7), which attest to the damages each suffered. The evidence established that the consumers sustained monetary damages after Defendants failed to provide the services for which Defendants accepted the consumers' payments. Plaintiff's counsel appeared before the Court and presented evidence to support the Plaintiff's request for consumer damages and civil penalties. Neither of the Defendants nor counsel on their behalf appeared.

The Court finds that each consumer sustained individual damages in the amounts set forth in the Consumer Damages List (attached as Exhibit 1 to Plaintiff's Damages Memo).

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

Based on the above, the Court ADOPTS the decision of the Magistrate, including the Findings of Facts, Conclusions of Law, and the ordered relief and damages, which are restated below for ease of reference, and renders the following Final Judgment Entry and Order against Defendants.

FINDINGS OF FACT

1. Defendant Lawrence M. Hurst is a natural person who resides at 4855 Township Rd. 49, Galion, Ohio 44833.
2. Defendant BL Concrete Construction, LLC is registered as a Limited Liability Company with the Ohio Secretary of State.
3. The principal place of business for Defendant BL Concrete Construction, LLC is 4855 Township Road 49, Galion, Ohio 44833.
4. Defendant Lawrence M. Hurst is a member of, and statutory agent for, Defendant BL Concrete Construction, LLC.
5. Defendant Hurst at all times pertinent hereto controlled and directed the business activities and sales conduct of Defendant BL Concrete Construction, LLC, causing, personally participating in, or ratifying the acts and practices of Defendant BL Concrete Construction, LLC, including the conduct giving rise to the violations described herein.
6. Defendants were served with the summons and Complaint by certified mail on January 14, 2016.
7. Defendants accepted monetary deposits from consumers for the purchase of home improvement goods and services, such as materials and installation services for patios, driveways, and sidewalks, and failed to deliver some of those goods and services within eight weeks.
8. Defendants have refused to refund consumers' deposits or payments despite consumers' requests for refund.
9. After receiving payment, Defendants sometimes began work but failed to complete the work.

10. Defendants provided shoddy and substandard home repair services to consumers and then failed to correct such services.
11. Defendants represented to consumers that Defendants would provide the ordered goods and services within an estimated time and then failed to provide such goods and services in the time promised.
12. One consumer obtained a judgment against Defendant Hurst in Delaware Municipal Court of Delaware County arising out of a consumer transaction and Defendant Hurst has not satisfied said judgment.
13. At the time of the transactions, Defendants failed to provide consumers with proper notices of cancellation forms describing the consumers' rights to cancel the transactions.

CONCLUSIONS OF LAW

14. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
15. 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.
16. The Attorney General is the proper party to commence these proceedings under the authority provided him 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.
17. Defendants are "suppliers," as that term is defined in R.C. 1345.01(C), as they engaged in the business of effecting "consumer transactions" by soliciting consumers either directly or

indirectly for home remodeling and repair goods and services for a fee, within the meaning of R.C. 1345.01(A).

18. Defendants committed unfair and deceptive acts and practices in violation of the Failure to Deliver Rule, Ohio Adm. Code 109:4-3-09 and CSPA, R.C. 1345.02(A), by accepting money from consumers for repairs and services on household goods and permitting eight weeks to elapse without delivering the promised services or issuing a full refund, advising the consumers of the duration of an extended delay and offering to send a refund within two weeks if so requested, or furnishing similar goods or services of equal or greater value as a good faith substitute.
19. Defendants committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A) by performing repairs and services on household goods in an incomplete, shoddy, or unworkmanlike manner, and failing to correct the work.
20. Defendant Hurst committed unfair or 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.
21. Defendants violated the Home Solicitation Sales Act, 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. Defendants, under their own names or any other names, their agents, representatives, salespeople, employees, successors, and assigns, and all persons acting on behalf of Defendants 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.
- C. Defendants are jointly and severally ORDERED to pay consumer damages, to consumers identified in affidavits provided to the Court who were injured by the conduct of the Defendants as set forth herein in the amount of \$14,590, as follows: A payment of \$13,490 shall be made to the Consumer Protection Section of the Office of the Ohio Attorney General for distribution to Consumers Michael Krohn, Dan Swallie, Diana Arie, William Gubser and Justin Shaver in the amounts set forth in State's Exhibit 1 to Plaintiff's Damages Memo. Such payment shall be made by 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 Street, 14th Floor
Columbus, Ohio 43215

- D. A payment of \$1100 shall be made to Check Smart on behalf of Consumer Brown.
- E. Pursuant to the above finding that Defendants committed unfair and deceptive acts and practices in violation of the CSPA, Defendants are jointly and severally ORDERED to pay

a civil penalty to the Ohio Attorney General in the amount of \$10,000.00, pursuant to R.C.
1345.07(D). Such payment shall be made by 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 Street, 14th Floor
Columbus, Ohio 43215

- F. Defendants are ENJOINED from engaging in business as suppliers in any consumer transactions in the State of Ohio, until such time as they have satisfied all monetary obligations due hereunder.
- G. Defendants are ORDERED to pay court costs.

IT IS SO ORDERED.

DATE

JUDGE CHRIS BROWN

Prepared by:

MICHAEL DEWINE
ATTORNEY GENERAL

/s/ Brandon C. Duck
Brandon C. Duck (0076725)
Jennifer L. Mildren (0087564)
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Consumer Protection Section
30 E. Broad Street, 14th Floor
Columbus, Ohio 43215
Phone: (614) 466-1031
Fax: (866) 848-1068

Brandon.Duck@ohioattorneygeneral.gov

TO THE CLERK,
PLEASE SERVE ON THE FOLLOWING:

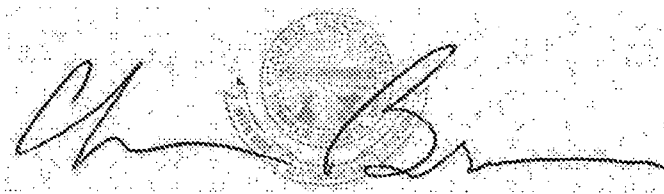
Lawrence Hurst
4855 Township Rd. 49
Galion, Ohio 44833

BL Concrete Construction, LLC
4855 Township Rd. 49
Galion, Ohio 44833

Franklin County Court of Common Pleas

Date: 10-06-2016
Case Title: OHIO STATE -VS- LAWRENCE M HURST INDI ET AL
Case Number: 15CV008819
Type: ORDER

It Is So Ordered.

A handwritten signature in black ink, appearing to read 'Ch. Brown', is written over a circular, textured seal or stamp.

/s/s Judge Christopher M. Brown