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CLERK OF COURTS
WILLIAMS COUNTY OHIO

IN THE COURT OF COMMON PLEAS OF WILLIAMS COUNTY, OHIO

State of Ohio ex rel. Michael DeWine)	Case No. 16CI000020
Ohio Attorney General)	
)	Judge J.T. STELZER
Plaintiff,)	
)	<u>OPINION AND JUDGMENT ENTRY</u>
vs.)	
)	
Ever Clean, LLC, et al)	
)	
Defendants.)	

This cause came to be heard upon the Plaintiff's Motion for Default Judgment against Ever Clean, LLC and Thadius Wind pursuant to Civ. R. 55(A). Plaintiff commenced this action with the filing of its Complaint on February 18, 2016 for violations of the Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq., its Substantive Rules, and the Home Solicitation Sales Act ("HSSA"), R.C. 1345.21 et seq. Service by certified mail was perfected upon Defendant Thadius Wind on February 23, 2016 and upon Legal Inc., registered agent for Defendant Ever Clean, LLC, on May 2, 2016. More than twenty-eight (28) days after such service, Defendants have failed to answer or otherwise defend or appear in any manner during this action. Therefore, Plaintiff is entitled to a default judgment pursuant to Civ. R. 55(A).

The Court finds the Plaintiff's Motion for Default Judgment to be well taken and hereby GRANTS same. The Court makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The actions of Defendants, hereinafter described, occurred in Williams County, Ohio.

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2. Defendant Ever Clean, LLC, at all relevant times, was a limited liability company that sold home improvement services in Williams County and was registered with the Ohio Secretary of State under charter number 2209577.

3. Defendant Thadius Wind is a natural person who is the owner and operator of Ever Clean, LLC. Defendant Wind allowed, caused, directed or ratified the acts and practices of Ever Clean, LLC, either by himself or by employees and/or agents of the business.

4. Defendants sold home improvement services to consumers at places other than the sellers' place of business. These transactions took place at individual consumers' homes.

5. Defendants performed residential home improvement services for consumers that included gutter and downspout replacement and installation.

6. Defendants performed home improvement services for consumers in a shoddy or unworkmanlike manner.

7. Defendants accepted substantial payments from consumers but failed to either begin or complete the work for which they were paid. Defendants did not give refunds for incomplete or shoddy work.

8. Defendants failed to include provide proper notices of cancellation to consumers, improperly restricted consumers' means of cancellation, and failed to honor valid notices of cancellation.

CONCLUSIONS OF LAW

9. This Court has jurisdiction over the subject matter of this action pursuant to R.C. 1345.04.

10. Venue is proper with this Court pursuant to Civ. R. 3(B)(2) and (3) in that, at all times relevant to this action, Williams County, Ohio is where Defendants' principle place of business was located and where Defendants conducted some of the transactions that lead to this action.

11. Defendants are "suppliers" as that term is defined in R.C. 1345.01(C), as Defendants were, at all times relevant to this action, engaged in the business of effecting consumer transactions by selling home improvement services to individuals in Ohio, including in Williams County, for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).

12. Defendants are "sellers" as that term is defined in R.C. 1345.21(C) as Defendants, at all relevant times to this action, engaged in home solicitations of sales at places other than their place of business.

13. Defendants committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), and the Failure to Deliver Rule, O.A.C. 109:4-3-09, by accepting money from consumers for home improvement services and materials and permitting eight weeks to elapse without delivering the promised goods or services or issuing full refunds.

14. Defendants committed unfair or 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 failed to correct such work.

15. Defendants committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), and the HSSA, R.C. 1345.22, by improperly restricting a consumer's means of cancellation.

16. Defendants committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), and the HSSA, R.C. 1345.23(B), by failing to provide proper notice of cancellation forms with the written agreements.

ORDER

In its Motion, Plaintiff requested the relief sought in its Complaint, including that consumer damages be awarded and a civil penalty be assessed against Defendants. After being duly advised on the matter, the Court finds Plaintiff's requests to be well-taken and hereby GRANTS same. Therefore, it is hereby ORDERED, ADJUDGED, and DECREED that:

17. The Plaintiff's request for a Declaratory Judgment that the types of acts and practices set forth above in the Conclusions of Law and Findings of Fact violate the CSPA, the O.A.C., and the HSSA is hereby GRANTED.

18. Defendants Thadius Wind and Ever Clean, LLC, doing business under those or any other names, their officers, partners, agents, servants, representatives, salespersons, employees, successors or assigns, and all persons acting in concert and participation with them directly or indirectly through any corporate device, partnership or association, in connection with any consumer transactions, is PERMANENTLY ENJOINED from engaging in any unfair or deceptive acts or practices that violate the CSPA, R.C. 1345.01 et seq., and the HSSA, R.C. 1345.21, et seq., including, without limitation, the conduct described in the Conclusions of Law paragraphs 13 – 16.

19. Pursuant to R.C. 1345.07(B), Defendants Thadius Wind and Ever Clean, LLC are ordered, jointly and severally, to pay consumer damages in the total amount of Fourteen Thousand Seven Hundred Seventy-Eight Dollars and Thirty Cents (\$14,778.30). Such payment

shall be made to the Attorney General via a certified check or money order payable to the "Ohio Attorney General," and delivered to:

Compliance Officer
Consumer Protection Services
Office of the Ohio Attorney General
30 East Broad Street, 14th Floor
Columbus, Ohio 43215

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

Virginia Bender - \$3,798.52

Charolette Seiple - \$1,600.00

Patrick Kemp - \$750.00

Rana Wooley - \$5,710.16

Patricia Miller - \$2,919.62

20. Based on the above findings that Defendant committed unfair and deceptive acts and practices in violation of the CSPA and the HSSA, Defendants are ordered, jointly and severally, to pay civil penalties in the amount of ~~Thirty Thousand Dollars (\$30,000.00)~~ ^{Twenty - five thousand (\$25,000.00)}, pursuant to R.C. 1345.07(D). Such payment shall be made to the Attorney General via a certified check or money order payable to the "Ohio Attorney General," and delivered to:

Compliance Officer
Consumer Protection Services
Office of the Ohio Attorney General
30 E. Broad Street, 14th Floor
Columbus, Ohio 43215

21. Defendants are ordered, jointly and severally, to pay all court costs.

Date

8/4/16

Judge

