

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO, ex rel.)	
ATTORNEY GENERAL)	CASE NO. 17CV007594
MICHAEL DEWINE)	
)	JUDGE LYNCH
Plaintiff,)	
)	<u>Judgment Entry and</u>
v.)	<u>Order Against</u>
)	<u>Defendant Stewart</u>
WEYLIN STEWART, et al.)	
)	
Defendants.)	
)	

This matter came to be heard upon the filing of Plaintiff's Motion for Default Judgment against both Defendants on January 29, 2018. That Motion was amended on February 8, 2018 to change it to a request for a default judgment against Defendant Stewart only. On February 13, 2018, the Court issued an Order and Entry Granting Default Against Defendant Stewart ("Default Judgment Order"). The Default Judgment Order issued findings of fact and conclusions of law, granted Plaintiff's requests for declaratory and injunctive relief, ordered Defendant Stewart to pay civil penalties and consumer damages in amounts to be determined at a damages hearing, and granted Plaintiff's request to submit evidence of consumer damages via affidavits.

On June 11, 2018, Plaintiff filed a Memorandum in Support of Damages and Other Requested Relief ("Damages Memo") along with the sworn affidavits of five consumers, all of whom suffered monetary damages due to Defendant Stewart's unfair and deceptive acts and practices. The Damages Memo also set forth the statutory basis for Plaintiff's request for the imposition of \$40,000 in civil penalties.

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JUN 21 2018

In lieu of a damages hearing, the Court accepts the evidence presented via Plaintiff's Damages Memo and finds all of its requests well-taken. The evidence establishes that the five consumers who submitted affidavits sustained monetary damages totaling \$29,271.13 and that the imposition of a \$40,000 civil penalty is proper, appropriate, and permitted by R.C. 1345.07(D).

Based on the above, the Court completely restates below the findings of fact, conclusions of law, and orders that were originally included in the Court's Default Judgment Order and issues new orders specifying the consumer damages and civil penalty amounts that Defendant Stewart must pay.

FINDINGS OF FACT

1. Defendant Stewart is a natural person who resides in Franklin County at 73 Midcliff Drive, Columbus, Ohio 43213.
2. Defendant Stewart at all times pertinent hereto controlled and directed the business activities and sales conduct of Defendant Leadway causing, personally participating in, or ratifying the acts and practices of Defendant Leadway, including the conduct giving rise to the violations described herein.
3. Defendant Stewart accepted monetary deposits from consumers for the purchase of home improvement goods and services such as roofing and siding materials and services and then failed to deliver some of those goods and services within eight weeks.
4. Defendant Stewart has refused to refund consumers' deposits or payments despite consumers' requests for refunds.
5. After receiving payment, Defendant Stewart sometimes began work but failed to complete the work.

6. Defendant Stewart provided shoddy and substandard home repair services to consumers and then failed to correct such services.
7. Defendant Stewart did not provide consumers with contracts with the three-day right to cancel provision.

CONCLUSIONS OF LAW

8. The actions of Defendant Stewart described in the Complaint and in this Order have occurred in the State of Ohio, including in Franklin County, and, as set forth below, are in violation 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.
9. The Attorney General, acting on behalf of the State of Ohio and in the public interest, is the proper party to bring this action by virtue of the authority vested in the Attorney General by the CSPA, R.C. 1345.01 et seq.
10. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
11. Venue in this Court is proper, pursuant to Ohio Civ. R. 3(B)(1) and 3(B)(3), in that Franklin County is where Defendant Stewart resides and where he conducted some of the transactions that led to the violations set forth herein.
12. Defendant Stewart is a "supplier" as defined in R.C. 1345.01(C) because he has engaged in the business of effecting consumer transactions by soliciting consumers for home remodeling and repair goods and services for a fee, within the meaning of R.C. 1345.01(A).
13. Defendant Stewart committed unfair and deceptive acts and practices in violation of the Failure to Deliver Rule, O.A.C. 109:4-3-09(A), and the CSPA, R.C. 1345.02(A), by accepting money from consumers for goods or services and then permitting eight weeks to

elapse without making shipment or delivery of the goods or services ordered, making a full refund, advising the consumer 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.

14. Defendant Stewart committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by performing shoddy and substandard work and then failing to correct such work.
15. Defendant Stewart engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02 of the CSPA and R.C. 1345.23 of HSSA 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.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED THAT:

- A. Defendant Weylin Stewart, doing business under his own name, the name Leadway General Contracting & Construction Management, Inc., or any other names, his agents, representatives, salespeople, employees, successors, or assigns, and all persons acting in concert or participating with him, directly or indirectly, is **PERMANENTLY ENJOINED** from engaging in the acts and practices described in this order and from further violating the CSPA, R.C. 1345.01 et seq., and the HSSA, R.C. 1345.21 et seq.
- B. It is **DECLARED** that the acts and practices committed by Defendant Stewart, as set forth above, violate the CSPA, R.C. 1345.01 et seq., its Substantive Rules, O.A.C. 109:4-3-01 et seq., and HSSA, R.C. 1345.21 et seq., in the manner set forth herein.
- C. Pursuant to R.C. 1345.07(B), Defendant Stewart is ordered to pay consumer damages in the total amount of \$29,271.13. Such payment shall be made to the Attorney General via

a certified check or money order, made payable to the "Ohio Attorney General" and delivered within seven days to:

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

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

Exhibit #	Last Name	First Name	City	State	Amount
1	Haynes	Dino	Columbus	OH	\$2,514.58
2	McKinstry	Charlene	Fremont	OH	\$4,865.00
3	Mitchell	Omar	Pickerington	OH	\$2,800.00
4	Muhammad	Robin	Columbus	OH	\$14,922.81
5	Peters	Janene	Fremont	OH	\$4,168.74
				TOTAL	\$29,271.13

D. Based on the above findings that Defendant Stewart committed unfair and deceptive acts and practices in violation of the CSPA, Defendant Stewart is **ORDERED** to pay \$40,000 in civil penalties, pursuant to R.C. 1345.07(D). Such payment shall be made to the Attorney General via a certified check or money order, made payable to the "Ohio Attorney General" and delivered within seven days to:

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

E. Defendant Stewart is **ENJOINED** from engaging in business as a supplier in any consumer transaction in the State of Ohio until such time as he has satisfied all monetary obligations due hereunder.

F. Defendant Stewart is **ORDERED** to pay all court costs.

This is a final appealable order and there is no just cause for delay.

IT IS SO ORDERED.

Direction to Clerk:

Pursuant to Civ.R.58(B), you are to serve notice of this judgment and its date of entry upon the journal to all parties not in default for failure to appear within three days of the judgment's entry upon the journal, and note the service in the appearance docket.

Franklin County Court of Common Pleas

Date: 06-19-2018
Case Title: OHIO STATE EX REL ATTORNEY GENERAL -VS- WEYLIN
STEWART ET AL
Case Number: 17CV007594
Type: JUDGMENT ENTRY

It Is So Ordered.

The image shows a handwritten signature in cursive script that reads "Julie M. Lynch". The signature is written over a circular official seal. The seal contains the text "OHIO STATE EX REL ATTORNEY GENERAL" around the top and "FRANKLIN COUNTY, OHIO" around the bottom. In the center of the seal is a smaller emblem.

/s/ Judge Julie M. Lynch