

IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO

STATE OF OHIO, *ex rel.*
ATTORNEY GENERAL
DAVE YOST

Plaintiff,

v.

CORY DEVOR
DBA ABC CONSTRUCTION

Defendant.

Case No: 2018 CV 04760

Judge Steven K. Dankof
Magistrate Kristi A. McCartney

FINAL JUDGMENT

ENTRY AND ORDER

RECEIVED
ATTORNEY GENERAL OF OHIO

APR 01 2019

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

Plaintiff commenced this action on October 16, 2018 by filing its Complaint and Request for Declaratory Judgment, Injunctive Relief, Consumer Restitution, and Civil Penalties against Defendant Cory Devor ("Defendant"). The Complaint alleged violations of the Consumer Sales Practices Act ("CSPA"), R.C. 1345.41 *et seq.* and the Home Solicitation Sales Act, R.C. 1345.21 *et seq.* Defendant was served via certified mail on October 23, 2018. Defendant failed to respond within the twenty-eight days allotted under the rules. Defendant has also failed to make any appearance in this action.

Plaintiff filed a Motion for Default Judgment on December 4, 2018. This Court issued a Default Judgment Entry and Order against Defendant on December 15, 2018. The Default Judgment included an order for Defendant to pay civil penalties and restitution to all consumers injured by Defendant's conduct, in an amount to be determined at a later date via affidavits. A damages hearing was scheduled for this case for March 15, 2019. On March 7, 2019, Plaintiff filed a Memorandum in Support of Damages and Civil Penalties ("Damages Memo"), in which Plaintiff submitted evidence supporting the amount of civil penalties and consumer damages that

Plaintiff was requesting. The damages hearing was held before the Court on March 15, 2019 at 9:00 a.m. Plaintiff's counsel appeared before the Court. Neither Defendant nor counsel on his behalf appeared.

In support of its request for consumer damages, Plaintiff attached to its Damages Memo the affidavits of five consumers, which attested to the damages suffered by those consumers. The evidence established that each of the consumers sustained monetary damages in connection with Defendant's home improvement business. The Court finds that each consumer sustained individual damages in the amounts set forth in the Consumer Damages List (attached as Exhibit 6 to Plaintiff's Damages Memo).

In its Damages Memo, Plaintiff also explained the basis for the amount of civil penalties requested. Plaintiff's request was made pursuant to R.C. 1345.07(D). Plaintiff provided evidence of the Defendants' violations of the CSPA which, pursuant to R.C. 1345.07(D), permit the imposition of a civil penalty in the amount of \$25,000.00. The Court finds the Plaintiff's request well-taken.

Based on the above, the Court renders the following FINAL JUDGMENT ENTRY AND ORDER against the Defendants.

FINDINGS OF FACT

1. Defendant Cory Devor is a natural person who resides at 6726 Farmington Rd.,
Miamisburg, OH 45342.
2. Defendant conducted some of his business using the unregistered fictitious business name
ABC Construction.

3. Defendant at all times relevant to this action was engaged in the business of soliciting, offering for sale, or selling home improvement goods and services to consumers in Montgomery County and in other counties in the state of Ohio.
4. Defendant solicited and sold home improvement goods and services to Ohio consumers at their residences.
5. Defendant does not have a retail business establishment or a fixed permanent location where the goods are exhibited or services are offered for sale on a continuing basis.
6. On occasion, Defendant represented that his business, ABC Construction, was insured when, if fact, Defendant did not have business insurance.
7. Defendant accepted monetary deposits from consumers for the purchase of his home improvement goods and services.
8. After receiving deposits, Defendant failed to deliver the contracted for home improvement goods or services.
9. Defendant represented to consumers that he would provide the contracted for goods and services within an estimated time and then failed to provide such goods and services in the time promised.
10. Consumers who did not receive their goods or services requested refunds from Defendant.
11. Defendant failed to provide requested refunds to consumers for whom he did not deliver the promised goods or services.
12. Home improvement repairs or services that were provided or attempted by Defendant were performed in an incomplete, shoddy, substandard, or unworkmanlike manner.
13. Defendant's incomplete, shoddy, substandard and unworkmanlike repairs or services caused harm to consumers and their property.

CONCLUSIONS OF LAW

14. The actions of Defendant described in the Complaint and in this Order have occurred in Ohio, including in Montgomery County and, as set forth below, are in violation of the Consumer Sales Practices Act (“CSPA”), R.C. 1345.01 *et seq.*, and its Substantive Rules, Ohio Administrative Code (“O.A.C.”) 109:4-3-01 *et seq.*
15. 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 R.C. 1345.07.
16. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04.
17. Venue in this Court is proper, pursuant to Ohio Civ. R. 3(B)(1) and 3(B)(3), in that Montgomery County is where Defendant resides and where Defendant conducted some of the transactions described herein.
18. Defendant is a “supplier” as that term is defined in R.C. 1345.01(C) of the CSPA because Defendant has engaged in the business of effecting “consumer transactions” either directly or indirectly by soliciting and selling home improvement goods or services for purposes that were primarily for personal, family, or household use, within the meaning of R.C. 1345.01(A).
19. Defendant engaged in unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), and the Failure to Deliver Rule, O.A.C. 109:4-3-09(A), by accepting money from consumers for goods or services, failing to make full delivery of the promised goods or services, and failing to provide full refunds.

20. Defendant engaged in unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by performing home improvement repairs and services in an incomplete, shoddy, substandard, or unworkmanlike manner.
21. Defendant engaged in unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A) and R.C. 1345.02(B)(1), by representing that the subject of the consumer transaction had sponsorship, approval, performance characteristics, accessories, uses or benefits that it does not have.
22. Defendant engaged in unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A) and R.C. 1345.02(B)(9), by representing that he had sponsorship, approval, or affiliation that he did not have.
23. Defendant committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by failing to register with the Ohio Secretary of State his use of a fictitious business name, as required by R.C. 1329.10.
24. Defendant committed unconscionable acts and practices in violation of the CSPA, R.C. 1345.03(A), by misrepresenting that he possessed insurance in connection with his home improvement business to induce consumers to purchase his services and for which the consumers relied upon to their detriment.
25. Defendant violated the Home Solicitation Sales Act, R.C. 1345.23 and the CSPA, R.C. 1345.02(A), by failing to give proper notices to consumers of their right to cancel their transactions by a specific date and by failing to give consumers a cancellation form.

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

- A. Plaintiff's request for a Declaratory Judgment is GRANTED, and it is therefore DECLARED that each act or practice set forth above violates the CSPA.
- B. Defendant, his agents, employees, successors or assigns, and all persons acting in concert and participation with him, directly or indirectly, through any corporate device, partnership, or other association, under these or any other names, are PERMANENTLY ENJOINED from engaging in the acts and practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 et seq.
- C. Defendant is ORDERED to pay consumer damages to the Ohio Attorney General in the total amount of \$19,718.68 to be distributed by the Attorney General to the consumers identified on the attached Addendum A, in the amounts specified on Addendum A.
- D. 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.
- E. Defendant is ENJOINED from engaging in business as a supplier in any consumer transactions in the State of Ohio, until such time as he has satisfied all monetary obligations due hereunder.
- F. Defendant is ORDERED to pay all court costs.

IT IS SO ORDERED.

DATE

JUDGE STEVEN K. DANKOF

MAGISTRATE KRISTI A. MCCARTNEY

Submitted by:

DAVE YOST
Ohio Attorney General

/s/ Christopher Ramdeen
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Counsel for Plaintiff, State of Ohio

TO THE CLERK,

PLEASE SERVE ON THE FOLLOWING:

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Teresa Heffernan
Assistant Attorney General
Consumer Protection Section
30 East Broad Street, 14th Floor
Columbus, Ohio 43215

Cory Devor
6726 Farmington Rd
Miamisburg, OH 45342

ADDENDUM A
CONSUMER DAMAGES LIST

Last Name	First Name	City	State	Amount
Lawson	Emmitt	Franklin	OH	\$4750.00
Taylor	Larry	Union	OH	\$4950.68
Million	Shonda	Dallas	TX	\$2600.00
Clemons	Mark	Middletown	OH	\$4089.00
Nolan	Adam	Lebanon	OH	\$3329.00



General Division
Montgomery County Common Pleas Court
41 N. Perry Street, Dayton, Ohio 45422

Case Number:
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STATE OF OHIO EX REL. ATTORNEY GENERAL DEWINE
vs CORY DEVOR

Type:

Final Judgment Entry

So Ordered,