

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

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|--------------------------------------|---|-------------------------------|
| STATE OF OHIO ex rel. |) | |
| OHIO ATTORNEY GENERAL |) | CASE NO. 18 CV 003364 |
| DAVE YOST |) | |
| |) | JUDGE MCINTOSH |
| Plaintiff, |) | |
| |) | MAGISTRATE BROWNING |
| v. |) | |
| |) | <u>FINAL JUDGMENT</u> |
| STEVEN M. DEMATTEO, individually and |) | <u>ENTRY AND ORDER</u> |
| d/b/a DEMATTEO STUCCO |) | |
| |) | |
| Defendant. |) | |

The Plaintiff filed its Complaint on April 23, 2018, and this Court issued an Order and Entry Granting Default Against Defendant ("Default Judgment Order") on January 25, 2019. The Default Judgment Order issued findings of fact and conclusions of law, granted Plaintiff's requests for declaratory and injunctive relief, ordered Defendant Steven M. DeMatteo ("Defendant") 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 in lieu of live consumer testimony.

On February 8, 2019, Plaintiff filed a Memorandum in Support of Consumer Damages and Civil Penalties ("Damages Memo") along with the sworn affidavits of three consumers, all of whom suffered monetary damages due to Defendant's unfair and deceptive acts and practices. The Damages Memo set forth the statutory basis for Plaintiff's request for the award of \$2,734.89 in consumer damages and the imposition of a \$50,000 civil penalty.

Plaintiff appeared through counsel at the Damages Hearing conducted by the Magistrate on March 6, 2019; the Defendant did not appear. In the Magistrate's Decision on Consumer Damages and Civil Penalties ("Magistrate's Decision") issued that day, the Magistrate found all

of Plaintiff's requests in its Damages Memo well-taken. The Magistrate's Decision reissued the findings of fact, conclusions of law, and orders that were included in the Court's Default Judgment Order and also issued new orders specifying that the Defendant must pay \$2,734.89 in consumer damages and \$50,000 in civil penalties.

This matter came for the Court's review of the March 6, 2019 Magistrate's Decision, issued pursuant to Civ. R. 53(D)(3). The objection period has expired with neither party filing objections. The Magistrate's Decision is affirmed.

Based on the above, the Court ADOPTS the Magistrate's Decision and restates below for ease of reference the findings of fact, conclusions of law, and the ordered injunctive relief, damages, and civil penalties, rendering the following Final Judgment Entry and Order against the Defendant.

FINDINGS OF FACT

1. Defendant Steven M. DeMatteo ("DeMatteo") is a natural person who resides at 5578 Norcross Road, Columbus, Ohio 43229.
2. Defendant DeMatteo conducted some of his business using the unregistered fictitious business name DeMatteo Stucco.
3. Defendant is also purported to have conducted business using the names DeMatteo Stucco and Stone and DeMatteo Stucco and Paint.
4. 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 Franklin County and in other counties in the state of Ohio.
5. On March 13, 2012, the Attorney General filed a lawsuit against DeMatteo alleging that he had violated the Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq., in

connection with his provision of home improvement work. Franklin County Case No. 12-CV-003266.

6. In that previous lawsuit, the Court granted a default judgment against DeMatteo, and on September 7, 2012, the Court entered an Entry and Order Assessing Damages and Civil Penalties Against Defendant. Id. DeMatteo was ordered to pay \$7,260 in consumer damages and a \$25,000 civil penalty. Id. DeMatteo was also enjoined from engaging in consumer transactions in Ohio as a supplier until he had paid all penalties and damages owed to the State of Ohio.
7. To date, DeMatteo has not paid any of the consumer damages or civil penalties awarded by the judgment in Case No. 12-CV-003266.
8. In the time since the 2012 default judgment, Defendant DeMatteo has continued soliciting Ohio consumers to provide a variety of home improvement repairs and services, including painting, stucco repair, and concrete work.
9. Defendant accepted monetary deposits from consumers for the purchase of home improvement goods or services.
10. After receiving deposits, Defendant failed to deliver the home improvement goods or services that were promised to consumers.
11. Consumers who did not receive their goods or services requested refunds from Defendant.
12. Defendant failed to provide requested refunds to consumers for whom he did not deliver the promised goods or services.
13. Home improvement repairs or services that were provided or attempted by Defendant were performed in an incomplete, shoddy, substandard, or unworkmanlike manner.

CONCLUSIONS OF LAW

14. The actions of Defendant described in the Complaint and in this Order have occurred in Ohio, including in Franklin County and, as set forth below, are in violation of the 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 of the CSPA.
17. 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 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 R.C. 1345.02(A) of the CSPA 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 R.C. 1345.02(A) of the CSPA 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 R.C. 1345.02(A) of the CSPA by soliciting consumers for home improvement repairs and services while having an unpaid judgment arising from previous consumer transactions.

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

- A. Defendant DeMatteo, doing business under his own name, the names DeMatteo Stucco, DeMatteo Stucco and Stone, or DeMatteo Stucco and Paint, 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 its Substantive Rules, O.A.C. 109:4-3-01 et seq.
- B. It is DECLARED that the acts and practices committed by Defendant DeMatteo, as set forth above, violate the CSPA, R.C. 1345.01 et seq., and its Substantive Rules, O.A.C. 109:4-3-01 et seq., in the manner set forth herein.
- C. Pursuant to R.C. 1345.07(B), Defendant DeMatteo is ORDERED to pay \$2,734.89 in consumer damages. 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 to:

Finance Specialist
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 three consumers in the amounts set forth below:

| Last Name | First Name | City | State | Amount |
|-------------|------------|------------|--------------|-------------------|
| Howard | Brock | Pataskala | OH | \$1,000.00 |
| Orbaker | Sharon | Columbus | OH | \$1,234.89 |
| Rhodenstine | Randy | Grove City | OH | \$500.00 |
| | | | TOTAL | \$2,734.89 |

- D. Based on the above findings that Defendant DeMatteo committed unfair and deceptive acts and practices in violation of the CSPA, Defendant DeMatteo is ORDERED to pay a civil penalty of \$50,000. 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:

Finance Specialist
 Consumer Protection Section
 Office of the Ohio Attorney General
 30 E. Broad Street, 14th Floor
 Columbus, Ohio 43215

- E. Defendant DeMatteo is ENJOINED from engaging in business as a supplier in any consumer transactions with Ohio consumers.
- F. Defendant DeMatteo is ORDERED to pay all court costs.

IT IS SO ORDERED.

 DATE

 JUDGE MCINTOSH

Submitted by:

DAVE YOST
Ohio Attorney General

/s/ Tracy Morrison Dickens

Tracy Morrison Dickens (0082898)
Senior Assistant Attorney General
Consumer Protection Section
30 East Broad Street, 14th Floor
Columbus, Ohio 43215
(614) 466-3999(phone)/(614) 466-8898 (fax)
tracy.dickens@ohioattorneygeneral.gov
Counsel for Plaintiff, State of Ohio

Franklin County Court of Common Pleas

Date: 04-09-2019
Case Title: OHIO STATE ATTORNEY GENERAL -VS- STEVEN M
DEMATTEO
Case Number: 18CV003364
Type: JUDGMENT AGAINST DEFENDANT

It Is So Ordered.

A handwritten signature in black ink, appearing to read "Stephen L. McIntosh", is written over a faint, circular official seal of the Franklin County Court of Common Pleas. The signature is fluid and cursive.

/s/ Judge Stephen L. McIntosh