

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

STATE OF OHIO, ex rel.	)	CASE NO.: 18 CV 00290
ATTORNEY GENERAL	)	
DAVE YOST	)	
	)	
Plaintiff,	)	JUDGE RUSSO
	)	
v.	)	<u>FINAL JUDGMENT</u>
	)	<u>ENTRY AND ORDER</u>
CAPITAL CITY PAVING, LLC, et al.,	)	
	)	
Defendants.	)	

Rendered this \_\_\_\_ day of May, 2019

RECEIVED  
ATTORNEY GENERAL OF OHIO

MAY 21 2019

RUSSO, J.

CONSUMER PROTECTION SECTION  
PUBLIC INSPECTION FILE

INTRODUCTION

Plaintiff commenced this action with the filing of its Complaint on January 10, 2018. On March 7, 2018 Defendants filed an Answer to Plaintiff's Complaint. On August 23, 2018, Plaintiff served discovery requests on Defendants, including Requests for Admissions with instructions to respond within 28 days after service of the requests. Defendants failed to respond to the requests. On February 22, 2019 Plaintiff moved for summary judgment. The Court grants Plaintiff's motion and, based upon the evidence of record, hereby makes the following Findings of Facts, Conclusions of Law and Order.

FINDINGS OF FACT

1. Defendant Michael Wanko is a natural person whose last known address is 8695 Olentangy River Rd., Delaware, OH 43015.

2. The principle place of business for Defendant Capital City Paving, LLC was 5960 Wilderness Dr., Columbus, Ohio 43054.
3. Defendant Capital City Paving, LLC is registered as a Limited Liability Company with the Ohio Secretary of State.
4. Defendant Wanko at all times pertinent hereto controlled and directed the business activities and sales conduct of Defendant Capital City Paving, LLC, causing, personally participating in, or ratifying the acts and practices of Defendant Capital City Paving, LLC, including the conduct giving rise to the violations described herein.
5. In at least one instance, Defendant Wanko engaged in a consumer transaction using the fictitious business name "I Phase Asphalt."
6. Defendants accepted payment from consumers for the purchase of driveway paving materials and services.
7. Defendants provided shoddy and substandard services to consumers and then failed to correct such services.
8. Defendants accepted monetary deposits from consumers for resurfacing of driveways and failed to deliver those services within eight weeks.
9. Defendants have refused to refund consumers' deposits or payments despite consumers' requests for refund.

#### **CONCLUSIONS OF LAW**

10. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Consumer Sales Practices Act ("CSPA").

11. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(2) and (3).
12. Plaintiff, State of Ohio, by and through its counsel, the Attorney General of Ohio, Dave Yost, brought this action in the public interest and on behalf of the State of Ohio under the authority vested in him by R.C. 1345.01 *et seq.*
13. The actions of Defendants, hereinafter described, have occurred in Franklin County and other counties in the State of Ohio and, as set forth below, are in violation of the CSPA, R.C.1345.01 *et seq.*
14. 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 driveway paving goods and services for a fee, within the meaning of R.C. 1345.01(A).
15. Defendants 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.
16. Defendants committed unfair and deceptive acts or 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.

**ORDER**

THEREFORE, IT IS ORDERED, ADJUDGED, and DECREED that:

- A. Declaratory Judgment is hereby made that each act or practice complained of in Plaintiff's Complaint violates the CSPA and its Substantive Rules in the manner set forth in the Complaint.
- B. Defendant Michael Wanko, 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, is hereby 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.* and its Substantive Rules.
- C. Defendants are ordered to pay, pursuant to R.C. 1345.07(B), consumer damages in the amount of \$54,900. Defendants shall make their payment to the Consumer Protection Section of the Office of the Ohio Attorney General and such shall be distributed to the eight consumers consistent with Exhibit 11 to the Motion for Summary Judgment.
- D. Defendants are hereby assessed a civil penalty in the amount of One-Hundred Thousand Dollars (\$100,000) for the violations described herein, pursuant to R.C. 1345.07(D).
- E. Defendants are hereby enjoined from engaging in any consumer transactions as a supplier in this state until such time as Defendants have satisfied all monetary obligations ordered pursuant to this litigation.
- F. Defendants are assessed all costs in this action.

SO ORDERED.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
JUDGE RUSSO

PREPARED/APPROVED BY:

DAVE YOST  
Ohio Attorney General

/s/ Brandon C. Duck  
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Counsel for Plaintiff

Franklin County Court of Common Pleas

**Date:** 05-14-2019  
**Case Title:** OHIO STATE ATTORNEY GENERAL -VS- MICHAEL WANKO  
INDV ET AL  
**Case Number:** 18CV000290  
**Type:** JUDGMENT ENTRY

It Is So Ordered.

A handwritten signature in cursive script, reading "Gina Russo", is written over a circular, embossed seal of the Franklin County Court of Common Pleas. The seal features a central emblem surrounded by text, though the details are faint.

/s/ Judge Gina Russo