

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO ex rel.
ATTORNEY GENERAL
DAVE YOST

Plaintiff

v.

GEORGE FRANKLIN CAPPS, JR.
Individually and
d/b/a CAPPS CONSTRUCTION

Defendant

CASE NO. 19CV006567

JUDGE COCROFT

Final Judgment
Entry and Order

RECEIVED
ATTORNEY GENERAL OF OHIO

JAN 14 2020

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

This matter came to be heard upon the filing of Plaintiff's Motion for Default Judgment on November 22, 2019, after Defendant George Franklin Capps, Jr. ("Defendant") failed to respond to Plaintiff's Complaint. On December 12, 2019, the Court issued a Decision and Entry Granting Plaintiff's Motion for Default Judgment ("Default Judgment Decision"), which also granted the Plaintiff's request to submit affidavits on the issue of consumer damages as long as the affidavits were submitted within 30 days.

On January 9, 2020, Plaintiff filed its Memorandum in Support of Consumer Damages and Other Requested Relief ("Damages Memo"). Plaintiff attached to its Damages Memo the sworn affidavits of three consumers who suffered monetary damages as a result of Defendant's unfair and deceptive acts and practices, and Plaintiff requested \$224,005.11 in total consumer damages. The Damages Memo further set forth Plaintiff's basis for its request for injunctive relief, declaratory relief, and civil penalties, all of which Plaintiff first requested in its Complaint.

The Court finds Plaintiff's requests well-taken. The evidence establishes that the Defendant owes \$224,005.11 in damages to the three consumers who submitted affidavits, and that the imposition of a \$75,000 civil penalty is appropriate and permitted by R.C. 1345.07(D).

U.S. DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20315

FORM 1-65

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Plaintiff's requests for declaratory relief and injunctive relief are also granted. No hearing on this matter is necessary.

Based upon the above, the Court makes the following Findings of Fact and Conclusions of Law and orders the following relief:

FINDINGS OF FACT

1. Defendant is a natural person who resides at 3451 Northup Ave., Lot 32, South Bloomfield, Ohio 43103.
2. Defendant is known to at times go by the first name "Jody," and has used that first name in his dealings with consumers.
3. Defendant conducted some of his business using the fictitious business name Capps Construction.
4. Defendant at all times relevant to this action solicited, offered for sale, and sold home improvement goods or services to consumers at their residences, including the services of building decks, remodeling kitchens and bathrooms, and adding new additions on to consumers' homes.
5. Defendant did not have a physical business location where his goods were exhibited or where his services were offered for sale on a continuing basis.
6. Defendant accepted monetary deposits from consumers for the goods or services.
7. Defendant's contracts that consumers signed did not properly notify consumers about their right to cancel the contracts within three days.
8. Defendant failed to provide consumers with proper "notice of cancellation" forms describing the consumers' right to cancel the contracts within three days.

18. Venue in this Court is proper, pursuant to Ohio Civ. R. 3(C)(3), because Franklin County is where Defendant conducted some of the transactions complained of herein.
19. 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 personal, family, or household, within the meaning of R.C. 1345.01(A).
20. Defendant is a “seller” engaged in “home solicitation sales,” as those terms are defined in R.C. 1345.21(A) and (C) of the HSSA, because Defendant has engaged in personal solicitations at the residences of consumers, including solicitations in response to or following invitations by consumers.
21. 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.
22. 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 or services in an incomplete, shoddy, substandard, or unworkmanlike manner.
23. Defendant violated R.C. 1345.23(B) of the HSSA and R.C. 1345.02(A) of the CSPA by failing to give proper notice to consumers of their right to cancel their contracts within three days and by failing to give consumers a notice of cancellation form.

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

- A. Defendant, doing business under the name George Franklin Capps, Jr., the names Capps Construction or Jody Capps, 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, pursuant to R.C. 1345.07(A)(2), from engaging in the acts and practices described in this order and from further violating the CSPA, R.C. 1345.01 et seq., its Substantive Rules, O.A.C. 109:4-3-01 et seq., and the HSSA, R.C. 1345.21 et seq., including, but not limited to, violating the specific provisions described herein.
- B. It is DECLARED, pursuant to R.C. 1345.07(A)(1), that the acts and practices committed by Defendant, 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 the HSSA, R.C. 1345.21 et seq., in the manner set forth herein.
- C. Pursuant to R.C. 1345.07(B), Defendant is ORDERED to pay \$224,005.11 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 within seven days to:

Financial 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
Gantz	Lani	Columbus	OH	\$16,402.00
Steele	Janet	Pataskala	OH	\$85,000.00
Williams	Ken	Hilliard	OH	\$122,603.11
			Total	\$224,005.11

- D. Based on the above findings that Defendant committed unfair and deceptive acts and practices in violation of the CSPA, Defendant is ORDERED, pursuant to R.C. 1345.07(D), to pay a civil penalty of \$75,000. 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:

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

- E. Defendant 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 ordered by the Court in this case and has satisfied all monetary obligations ordered by any other Ohio court, in connection with a consumer transaction.
- F. Defendant is ordered to pay any statutory collection costs owed to the Plaintiff for the collection of this judgment.
- G. Defendant is ORDERED to pay all court costs.

IT IS SO ORDERED.

DATE

JUDGE COCROFT

Submitted by:

DAVE YOST
Ohio Attorney General

/s/ Tracy Morrison Dickens

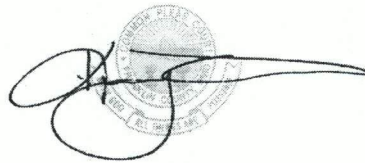
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Counsel for Plaintiff, State of Ohio

Franklin County Court of Common Pleas

Date: 01-14-2020
Case Title: STATE OF OHIO EX REL ATTORNEY GENERAL -VS- GEORGE
F CAPPS JR
Case Number: 19CV006567
Type: JUDGMENT ENTRY

It Is So Ordered.

A handwritten signature in black ink is written over a circular, embossed court seal. The seal features a central emblem surrounded by text, including "JUDICIAL BRANCH" and "FRANKLIN COUNTY, OHIO".

/s/ Judge Kimberly Cocroft

