IN THE COURT OF COMMON PLEAS
MUSKINGUM COUNTY, OHIO

STATE OF OHIO, ex rel. OHIO ATTORNEY GENERAL DAVE YOST	)	CASE NO.: CH2019-0100
Plaintiff	)	Judge Cottrill
v.	)	**FINAL JUDGMENT ENTRY AND ORDER**
ROBERT GORLEY, DBA C&J CONSTRUCTION	)	488/1037-1042
Defendant	)	

The Plaintiff commenced this action on April 11, 2019, by filing its Complaint and Request for a Declaratory Judgment, Injunctive Relief, Civil Penalties, and Other Appropriate Relief against Defendant Robert Gorley DBA C&J Construction ("Defendant"). The Complaint alleged violations of the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 *et seq.*, its Substantive Rules, Ohio Administrative Code ("O.A.C.") 109:4-3-01 *et seq.*, and the Home Solicitation Sales Act ("HSSA"), R.C. 1345.21 *et seq.*

Defendant was personally served by the sheriff on April 11, 2019. Defendant filed a pro se answer on May 8, 2019. The Court set this matter for a bench trial on July 25, 2019, later continued to October 31, 2019. The Court conducted the bench trial on October 31, 2019. Counsel for Plaintiff appeared. Defendant was incarcerated at the time of trial and did not appear nor did Defendant request to appear or continue the trial. Plaintiff presented testimony from the State's investigator and four consumer witnesses. All of Plaintiff's exhibits were admitted into evidence.

The evidence at trial established that the consumers sustained monetary damages after Defendant failed to provide the services for which Defendant accepted the consumers' payments, and that Defendant provided services in a shoddy manner. The Court finds that the consumers sustained damages in the amount of $60,649.78, as specified in paragraph C below.

The evidence at trial supported the State's request for imposition of a $25,000 civil penalty. Defendant engaged in multiple violations of the CSPA and the consumer testimony established that Defendant used coercive and manipulative methods to obtain payments from the consumers. The Court finds Plaintiff's request for a civil penalty in the amount of $25,000 well-taken.

Based on the above and the evidence at trial, the Court makes the following Findings of Fact and Conclusions of Law, and orders the following relief.

FINDINGS OF FACT

1. Defendant Robert Gorley is a natural person residing at Noble Correctional Institution, 15708 McConnelsville Rd., Cladwell, Ohio 43724.
2. At all times relevant to this action, Defendant represented that he would provide home remodeling and repair goods and services under the business name C&J Construction.
3. Defendant engaged in the business of offering and providing home improvement goods and services under the fictitious name C&J Construction.
4. Upon information and belief, Defendant failed to register the fictitious name "C&J Construction" with the Ohio Secretary of State.
5. Defendant solicited and sold home improvement goods and services at the residences of buyers.

6. Defendant does not have a retail business establishment or a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis.
7. Defendant engaged in the business of providing goods and services to consumers, including repair, remodeling, and installation services, and failed to deliver some of those goods and services within eight weeks.
8. Defendant accepted monetary deposits from consumers for the purchase of home improvement goods and services and failed to deliver those goods and services and has refused to refund consumers' deposits or payments.
9. Defendant represented to consumers that he would provide the ordered goods and services within an estimated time and then failed to provide such goods and services in the time promised.
10. Defendant performed substandard, shoddy, and incomplete work when he provided home improvement services.
11. After receiving payment, Defendant would sometimes begin to provide contracted services, and then fail to complete the work.
12. Defendant's performance of contracted services in a substandard, shoddy or incomplete manner has resulted in harm to consumers and required that consumers pay additional money to have Defendant's work corrected and/or to complete the work Defendant was supposed to do.
13. Defendant did not notify consumers of their cancellation rights nor did he provide consumers with a notice of cancellation.

CONCLUSIONS OF LAW

14. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.

15. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(1) and (2), in that Defendant resides in Muskingum County and Muskingum County is one of the counties in which Defendant conducted activity that gave rise to the claims for relief.

16. The Attorney General is the proper party to commence these proceedings under the authority provided him under R.C. 1345.01 *et seq.* and by virtue of his statutory and common law authority to protect the interests of the citizens of Ohio.

17. Defendant is a "supplier," as that term is defined in R.C. 1345.01(C), as he engaged in the business of effecting "consumer transactions" by soliciting consumers either directly or indirectly for home remodeling and repair goods and services for a fee, within the meaning of R.C. 1345.01(A).

18. Defendant engaged in "home solicitation sales" as a seller as that term is defined in R.C. 1345.21, as he made personal solicitations of his sales at the residences of buyers, within the meaning of R.C. 1345.21(A).

19. Defendant committed unfair or 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 and services and then permitting eight weeks to elapse without making shipment or delivery of the goods and services ordered, making a full refund, advising the consumers 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.

20. Defendant committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by performing substandard work and then failing to correct such work.

21. Defendant committed unfair or 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. 1329.01.

22. Defendant violated the HSSA, R.C. 1345.23 and R.C. 1345.02(A), by failing to give proper notices to consumers of their rights to cancel their transactions by a specific date.

THEREFORE IT IS ORDERED, ADJUDGED, AND DECREED THAT:

A. The Plaintiff's request for a Declaratory Judgment that the acts and practices set forth above are in violation of the CSPA, its Substantive Rules, and the HSSA, is hereby GRANTED.

B. Defendant is PERMANENTLY ENJOINED from performing any home improvement repair or construction work on his own or in the employ of another. Defendant may petition the Court for permission to engage in home improvement repair of construction work on his own or in the employ of another.

C. Defendant is ORDERED to pay consumer damages to the Ohio Attorney General in the total amount of **$60,649.78** to be distributed by the Attorney General to the consumers witnesses who testified at trial in the following amounts: (Heather Guthrie $20,478; Barbara Landkrohn $7,345; Lucinda Lang $4,160; Sarah Wickerham $28,666.78.)

D. Pursuant to the above findings that Defendant committed unfair and deceptive acts and practices in violation of the CSPA, Defendants are ORDERED to pay a civil penalty to the Ohio Attorney General in the amount of **$25,000.**

E. Defendant is liable for all collection fees and costs associated with this matter.

IT IS SO ORDERED.

11/26/19
DATE

JUDGE KELLY J. COTTRILL

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