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**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

STATE OF OHIO, EX REL. ATTORNEY GENERAL
DAVE YOST
Plaintiff

Case No: CV-20-933157

Judge: PETER J CORRIGAN

FILED
2021 APR 30 A 9:52
CLERK OF COURTS
CUYAHOGA COUNTY

BERNARD JOHN RAFFERTY DBA OHIO ROAD
MAINTEN, ET AL
Defendant

JOURNAL ENTRY

92 DEFAULT - FINAL

PLAINTIFF'S MOTION TO RETURN THIS MATTER TO ACTIVE DOCKET FOR FINAL ENTRY AND ORDER, FILED
03/29/2021, IS GRANTED.

FINAL ORDER IS ATTACHED. FINAL. OSJ.
COURT COST ASSESSED TO THE DEFENDANT(S).
PURSUANT TO CIV.R. 58(B), THE CLERK OF COURTS IS DIRECTED TO SERVE THIS JUDGMENT IN A MANNER
PRESCRIBED BY CIV.R. 5(B). THE CLERK MUST INDICATE ON THE DOCKET THE NAMES AND ADDRESSES OF ALL
PARTIES, THE METHOD OF SERVICE, AND THE COSTS ASSOCIATED WITH THIS SERVICE.

OSJ
Judge Signature

Date

RECEIVED
ATTORNEY GENERAL OF OHIO

MAY 03 2021

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

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

Plaintiff,

v.

Bernard John Rafferty (father)
d/b/a Ohio Road Maintenance, et al.,

Defendants

) CASE NO. CV-20-933157
)
) JUDGE PETER J. CORRIGAN
)
)
) **FINAL JUDGMENT ENTRY**
) **AND ORDER**
)
)
)

This matter came to be heard upon filing of Plaintiff's Motion for Default Judgment on October 20, 2020. Plaintiff filed its Complaint against Defendant Bernard Rafferty (father), Defendant Bernard Rafferty (son) and Defendant John Michael Rafferty, individually and doing business as Ohio Road Maintenance ("Defendants") on June 8, 2020. Service was perfected upon Defendants Bernard John Rafferty (father) and Bernard John Rafferty (son) on June 20, 2020. Service upon Defendant John Michael Rafferty was perfected July 22, 2020. Plaintiff filed a Motion for Default Judgment and Request to submit damages via affidavit on October 20, 2020 and the Court granted this Motion on December 10, 2020. Thereafter, 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.

In support of its request for consumer damages, Plaintiff attached to its Damages Memo

the affidavit of Investigator Erin Hall, who attested to the fact that nine (9) consumers suffered damages from their dealings with Defendants and offered her evidence showing their contracts and payments. The evidence established that each of the consumer sustained monetary damages in connection with Defendants' home improvement business. The Court finds that each consumer sustained individual damages in the amounts set forth in the attachment to the Hall Affidavit.

The Damages Memo filed by Plaintiff also set forth the basis for the amount of civil penalties requested pursuant to R.C. 1345.07(D), which permits the imposition of up to \$25,000 per violation of the CSPA.

The Court hereby GRANTS the Plaintiff's Motion for Default Judgment pursuant to Civ. R. 55(A) against Defendants, and makes the following Findings of Fact, Conclusions of Law and Orders the following relief:

FINDINGS OF FACT

1. Defendant Bernard John Rafferty (father), is a natural person who resides at 2582 Maguire Rd., Apt. 203, Ocoee, FL 34761-4749.
2. Defendant Bernard John Rafferty (son) is the son of Bernard John Rafferty (father), and is a natural person who resides at 2582 Maguire Rd., Apt. 203, Ocoee, FL 34761-4749.
3. Defendant John Michael Rafferty is also the son of Bernard John Rafferty (father), and is a natural person who resides at 2582 Maguire Rd., Apt. 203, Ocoee, FL 34761-4749.
4. All three Defendants did business using the name Ohio Road Maintenance, providing home improvement services including asphalt paving, to consumers in Ohio.
5. Defendants engaged in consumer transactions using the unregistered trade name Ohio

Road Maintenance. Defendants also used other unregistered trade names including Coast to Coast Contracting, B&R Paving, B&R Painting & Seal Coating, Bernard Paving & Chipsealing, Bernie Rafferty Sealcoating, Bernie Paving Chipseal, Platinum Asphalt, Bernard & Sons Painting, and ICC Contracting.

6. Defendants use or have used various world wide web domain names for their business endeavors, including www.ohioroadmaintenance.com; www.platinumpaving.com; www.bernardandsonspaving.com; www.bernardandsonspainting.com; www.johnnysprotectivecoatings.com; www.statewide-services.com; www.icccontracting.org; www.icccontracting.co; www.industrialfloridacontracting.com; www.ifccontracting.co and www.ifccontracting.org.
7. At all times relevant to this action, Defendants have solicited consumers to contract home improvement services such as paving, chipsealing and painting, sometimes using these various websites, as well as advertising through third-party websites such as www.networx.com and www.homeadvisor.com.
8. Defendants contracted for home improvement services with Ohio consumers.
9. Defendants accepted payments from consumers for home improvement services.
10. Defendants misrepresented the quality of the work that was to be performed on consumers' property, including misrepresenting the types of materials to be used, and the thickness of the asphalt to be applied.
11. Defendants accepted payment from consumers but then failed to commence the work.
12. Defendants sometimes started the work but either failed to finish the project, failed to finish the work in a satisfactory manner, and/or failed to correct reported problems with the work.

13. Defendants failed to inform consumers of their three-day right to cancel, and failed to give consumers an appropriately worded Notice of Cancellation.
14. Defendants failed to provide refunds to consumers for the work either not done or done in a shoddy or unworkmanlike manner.

CONCLUSIONS OF LAW

1. 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.
2. The actions of Defendants have occurred in the State of Ohio, including Cuyahoga County, and as set forth herein, 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., and the Home Solicitation Sales Act ("HSSA"), R.C. 1345.21 et seq.
3. Jurisdiction over the subject matter of this action lies with this Court pursuant to the CSPA, R.C. 1345.04.
4. This Court has venue to hear this case pursuant to Civ. R. 3(C)(3), in that many of the transactions complained of herein, and out of which this action arose, occurred in Cuyahoga County, Ohio.
5. Defendants are "suppliers" as that term is defined in R.C. 1345.01(C) as they engaged in the business of effecting or soliciting consumer transactions for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A).
6. Defendants are "sellers" of "home solicitations sales" as those terms are used in R.C.

1345.21, as Defendants were engaged in personal solicitations of the sales of home improvement services to consumers at their residences and the agreements or offers to purchase were made at a place other than the sellers' place of business.

7. Defendants committed unfair and deceptive acts and 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 delivering the services ordered, making full refunds, advising the consumers of the duration of an extended delay and offering to send a refund within two weeks if requested, or furnishing similar services of equal or greater value as a good faith substitute.
8. Defendants engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02(B)(2) by representing to consumers that the subject of a consumer transaction was of a particular standard, quality, grade, style, prescription, or model, when it was not.
9. Defendants engaged in unfair and deceptive acts and practices in violation of R.C. 1345.23(A) and (B) and R.C. 1345.02 by failing to include a proper Notice of Cancellation with the written agreement or offer to purchase, and in attempting to include in the home solicitation sales contract an improper waiver of the buyers' cancellation rights.

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

- A. Defendants, doing business under the names Bernard John Rafferty, John Michael Rafferty, Ohio Road Maintenance, or any other names, their agents, representatives, salespeople, employees, successors, or assigns, and all persons acting in concert or participating with them, directly or indirectly, are **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., its Substantive Rules, O.A.C. 109:4-3-01 et seq., and the HSSA, R.C. 1345.21 et seq.
- B. It is **DECLARED** that the acts and practices committed by Defendants, 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., and the HSSA, R.C. 1345.21 et seq., in the manner set forth herein.
- C. Pursuant to R.C. 1345.07(B), Defendants are **ORDERED**, jointly and severally, to pay consumer damages to the Ohio Attorney General in the total amount of Twenty-nine Thousand, One Hundred Seventy-five Dollars (\$29,175.00) to be distributed by the Attorney General to the consumers identified on the attached Addendum A, in the amounts specified in Addendum A.
- D. Based on the above findings that Defendants committed unfair and deceptive acts and practices in violation of the CSPA and HSSA, and pursuant to R.C. 1345.07(D), Defendants are **ORDERED**, jointly and severally, to pay civil penalties to the Ohio Attorney General in the amount of Thirty Thousand Dollars (\$30,000.00).
- E. Defendants are **ENJOINED** from engaging in business as suppliers in any consumer transactions with Ohio consumers until they have satisfied all financial liabilities and

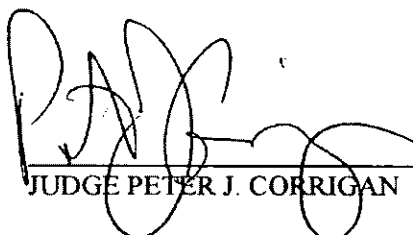
obligations ordered herein.

F. Defendants are **ORDERED** to pay the costs of collecting on this judgment.

G. Defendants are **ORDERED** to pay all court costs.

IT IS SO ORDERED.

Date: _____

 4/28/21
JUDGE PETER J. CORRIGAN

cc: Plaintiff
Defendant Bernard John Rafferty (father)
Defendant Bernard John Rafferty (son)
Defendant John Michael Rafferty