

RECEIVED
ATTORNEY GENERAL OF OHIO

CV18901172

118475498



SEP 01 2021

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE
IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

FILED
2021 AUG 31 A 9:50
CLERK OF COURTS
CUYAHOGA COUNTY

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

v.

ASHLEY NIHISER, d/b/a
ASHLEY CONTRACTORS, et al.,
Defendants

) CASE NO. CV-18-901172
)
) JUDGE KELLY ANN GALLAGHER
)
) **FINAL JUDGMENT ENTRY**
) **AND ORDER**
)
)

This matter came to be heard upon the filing of Plaintiff's Memorandum in Support of Damages and Civil Penalties ("Damages Memo").

Plaintiff filed its Complaint against Defendants Ashley Nihiser and Brian Stepp, individually and doing business as Ashley Contractors, LLC ("Defendants") on July 25, 2018. Service was perfected upon both Defendants, and both Defendants made limited appearances in this matter. This matter was stayed for approximately one year, as Defendant Brian Stepp filed for Chapter 7 bankruptcy in Case No. 18-52503-amk in the Ohio Northern District Bankruptcy Court. After the bankruptcy matter was concluded, this case was reactivated. Plaintiff filed for Summary Judgment which was granted by the Court on February 26, 2021. Plaintiff next filed the consumer affidavits and a memorandum in support of consumer damages and civil penalties. The affidavits filed established that each of the four consumers sustained monetary damages resulting from Defendants' home improvement business acts and practices. The Court finds that each consumer sustained individual damages in the amounts set forth in the spreadsheet

attachment to the Affidavit of State of Ohio Investigator Scott Massa.

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).

The Court hereby grants summary judgment in favor of Plaintiff and makes the following Findings of Fact, Conclusions of Law and Orders the following relief:

FINDINGS OF FACT

1. Defendant Ashley Nihiser is a supplier and owner of Ashley Contractors, LLC, whose last known business address was 968 Remsen Road, Medina, Ohio 44256.
2. Defendant Brian Stepp is a supplier and owner of Ashley Contractors, LLC.
3. Defendants operated a business known as Ashley Contractors, LLC, providing home improvement services to consumers in Ohio.
4. Defendants contracted for home improvement services with Ohio consumers.
5. Defendants accepted deposits and payments from consumers for home improvement services, and in some instances, failed to commence the work.
6. 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.
7. Defendants failed to timely provide refunds to consumers for the work either not performed or performed 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 CSPA, R.C. 1345.01 et seq., and its Substantive Rules, Ohio Administrative Code ("O.A.C."), 109:4-3-01 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 some 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 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.
7. Defendants committed unfair and 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.

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

- A. Defendants, doing business under the names Ashley Nihiser, Brian Stepp, Ashley Contractors, LLC or under any other names, along with 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., and its Substantive Rules, O.A.C. 109:4-3-01 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. in the manner set forth herein.
- C. Pursuant to R.C. 1345.07(B), Defendant Ashley Nihiser is **ORDERED**, to pay consumer damages to the Ohio Attorney General in the total amount of Ninety-three Thousand, Six Hundred Forty-nine Dollars and ninety-five cents (\$93,649.95) 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 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 One Hundred Thousand Dollars (\$100,000.00).
- 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: 8/24/21

Kelly Gallagher
JUDGE KELLY ANN GALLAGHER

cc: Plaintiff
Defendant Ashley Nihiser
Defendant Brian Stepp

Addendum A

Jonathan Ortiz
6083 Houston Drive
Parma, OH 44130

\$3,500.00

Mary Schweitzer
8145 Guilford Road
Seville, OH 44273

\$26,574.63

Sharon Streich
21405 Little Brook Way
Strongsville, OH 44149

\$8,673.32

Ronald Uline
18688 Northrup Lane
Strongsville, OH 44149

\$54,902.00