

IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO

STATE OF OHIO, ex rel.
ATTORNEY GENERAL
DAVE YOST

Plaintiff,

v.

ROBERT TRACY GREEN, et al.

Defendants

Case No: 2021 CV 00572

Judge: Mary K. Huffman

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ATTORNEY GENERAL OF OHIO

DEC 28 2021

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

Final Judgement Entry and Order

This Court rendered default judgment in favor of Plaintiff State of Ohio, ex rel. Attorney General of Ohio Dave Yost ("Plaintiff") and against Defendant Robert Tracey Green and Defendant TK Home Improvements LLC ("Defendants") on March 30, 2021. Default Judgment included an order for Defendants to pay civil penalties and restitution to all consumers injured by Defendants' conduct, in an amount to be determined at a later date via affidavits. Plaintiff filed a Memorandum in Support of Damages and Civil Penalties ("Damages Memo") on March 30, 2021 in which Plaintiff submitted evidence supporting the amount of civil penalties and consumer damages requested.

In support of its request for consumer damages, Plaintiff attached to its Damages Memo the affidavits of eight consumers, which attested to the damages they suffered. The evidence established that each of the consumers 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 Consumer Damages List (attached as Exhibit 9 to Plaintiff's Damages Memo).

In its Damages Memo, Plaintiff also explained the basis for the amount of civil penalties requested. Plaintiff's request was made pursuant to R.C. 1345.07(D). Plaintiff provided evidence of the Defendants' violations of the CSPA which, pursuant to R.C. 1345.07(D), permit the imposition of a civil penalty in the amount of \$50,000.00. The Court finds the Plaintiff's request well-taken.

FINDINGS OF FACT

1. Defendant TK Home Improvements LLC ("TK Home Improvements") is a limited liability company registered in the State of Ohio with a principal place of business at 336 Rockhill Ave. Dayton, OH 45429.
2. Defendant Robert Tracy Green ("Green") is an adult Ohio resident who was and is an owner, employee, officer, or director of TK Home Improvements.
3. Defendant Green directed, supervised, approved, formulated, authorized, ratified, benefited from, and/or otherwise participated in the acts and practices hereinafter stated.
4. Defendants solicited and sold home improvement goods and services at the residences of buyers.
5. Defendants do not have a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis.
6. Defendants engaged in the business of providing goods and services to consumers, including home repair, remodeling, and installation services, and failed to deliver some of those goods and services within eight weeks.

7. Defendants accepted monetary deposits from consumers for the purchase of home improvement goods and services and failed to deliver those goods and services and have refused to refund consumers' deposits or payments.
8. Defendants represented to consumers that they would provide the ordered goods and services within an estimated time and then failed to provide such goods and services in the time promised.
9. After receiving payment, Defendants would sometimes begin to provide contracted services, and then fail to complete the work.
10. When Defendants did provide home improvement services, they performed substandard, shoddy, and incomplete work.
11. Defendants' performance of contracted services in a substandard, shoddy, or incomplete manner has resulted in harm to consumers and required the consumers to pay additional money to have the Defendants' work corrected and/or to complete the work Defendants were supposed to do.
12. Defendants did not notify consumers of their cancellation rights nor did they provide consumers with a notice of cancellation.

CONCLUSIONS OF LAW

1. The actions of Defendants, as described herein, have occurred in the State of Ohio, in Montgomery County, involved residents of the State of Ohio, and, as set forth herein, are in violation of the CSPA, R.C. 1345.01 *et seq.* and the HSSA, R.C. 1345.21.

2. 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.
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 Ohio Civ. R. 3(C)(3) in that many of the transactions complained of herein, and out of which this action arose, occurred in Montgomery 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 engaged in “home solicitation sales” as sellers as that term is defined in R.C. 1345.21, as they made personal solicitations of their sales at the residences of buyers, within the meaning of R.C. 1345.21(A).
7. 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 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 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.

8. Defendants engaged in 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.
9. Defendants engaged in unfair and deceptive acts and practices in violation of the HSSA, R.C. 1345.23, and CSPA, R.C. 1345.02(A), by failing to give proper notices to consumers of their right to cancel their transactions by a specific date.
10. The acts or practices described in Conclusions of Law Paragraphs 7-9 have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 *et seq.* Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

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

- A. Defendants, doing business under their own names, the name TK Home Improvements LLC, 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.*, 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 1345.07(B), Defendants are ORDERED to pay consumer damages to the Ohio Attorney General in the total amount of \$64,350 to be distributed by the Attorney General

to the consumers identified on the attached Addendum A, in the amounts specified on Addendum A.

- D. Based on the above findings that Defendants 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 \$50,000.
- E. The \$114,350.00 due to the Attorney General under this Judgment shall be made upon entry of Judgment by delivering a certified check or money order payable to the "Ohio Attorney General's Office" and delivered to:

Finance Specialist
Consumer Protection Section
Office of the Ohio Attorney General
30 East Broad Street, 14th Floor
Columbus, Ohio 43215

- F. Defendants are ENJOINED from engaging in business as a supplier in any consumer transactions with Ohio consumers until they have satisfied all financial liabilities arising from the subsequent damages hearing.
- G. Defendants shall pay Plaintiff interest and collection costs on this judgment as permitted by statute.
- H. Defendants are ORDERED to pay all court costs.

IT IS SO ORDERED

DATE

JUDGE HUFFMAN

ADDENDUM A: CONSUMER DAMAGES SUMMARY

Last Name	First Name	City	County	State	Amount
Campbell	Adrian	Dayton	Montgomery	OH	\$6,000
Clark	Grant	Trotwood	Montgomery	OH	\$250
Killmeyer	Richard	Xenia	Greene	OH	\$16,500
Leiser	David	Dayton	Montgomery	OH	\$2,500
Mcelhaney	Robert	Wilmington	Clinton	OH	\$5,300
Mullins	Jennifer	Dayton	Montgomery	OH	\$12,800
Vanhook	Jean	Dayton	Montgomery	OH	\$7,500
Vanhook	John	Dayton	Montgomery	OH	\$13,500

Total: \$64,350

Submitted by:
DAVE YOST
Ohio Attorney General

/s/ Christopher Ramdeen
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Counsel for Plaintiff, State of Ohio



General Division
Montgomery County Common Pleas Court
41 N. Perry Street, Dayton, Ohio 45422

Case Number:
2021 CV 00572

Case Title:
OHIO ATTORNEY GENERAL vs ROBERT TRACY GREEN

Type:

Order:

So Ordered,

Mary H. Huffman

