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ATTORNEY GENERAL OF OHIO

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

JUN 18 2024

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

STATE OF OHIO, <i>ex rel.</i>)	
ATTORNEY GENERAL)	CASE NO. 23-CV-002330
DAVE YOST)	
)	
PLAINTIFF,)	JUDGE KIMBERLY COCROFT
)	
v.)	
)	
614 CUSTOM HOMES, INC., ET AL.,)	
)	
DEFENDANTS.)	

DEFAULT JUDGMENT ENTRY

This matter is before the Court upon Plaintiff's Amended Motion for Default Judgment and Request for Affidavit Testimony Instead of Live Testimony at Damages Hearing. A review of the record shows that Defendants 614 Custom Homes, Inc. and Mark A. Koval were properly served but failed to answer or otherwise respond to the complaint.

Accordingly, the Court finds as follows:

1. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Consumer Sales Practices Act ("CSPA").
2. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(3), in that Franklin County is the county where Defendants conducted activity giving rise to the claims for relief.
3. The Attorney General is the proper party to commence these proceedings in the public interest and on behalf of the State of Ohio under the authority vested in him by R.C. 1345.01 *et seq.*
4. Defendants are "suppliers" as that term is defined in R.C. 1345.01(C), as they engaged in the business of effecting "consumer transactions" by soliciting consumers either directly or

indirectly for home improvement goods and services, including home improvement remodels and additions, within the meaning of R.C. 1345.01(A).

5. Defendants are “sellers” engaging in “home solicitation sales” of “consumer goods or services” as those terms are defined in the Home Solicitation Sales Act, (“HSSA”), R.C. 1345.21(A), (C) and (E), because Defendants engaged in personal solicitations at the residences of consumers, including solicitations in response to or following invitations by consumers.
6. Defendants are “home construction services suppliers” engaged in “home construction services” as those terms are defined in the Home Construction Service Suppliers Act (“HCSSA”), R.C. 4722.01(B) and (D), because Defendants contracted with owners to construct “residential buildings” for compensation.
7. Defendant Koval controlled and directed the business activities and sales conduct of Defendant 614 Custom Homes, Inc., causing, personally participating in, or ratifying the acts and practices of 614 Custom Homes, Inc., including the conduct giving rise to the violations described herein.
8. Defendants 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 services of equal or greater value as a good faith substitute.

9. Defendants committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by providing home improvement services in an incomplete, shoddy, substandard and unworkmanlike manner and then failing to correct such work.
10. Defendants violated the CSPA, R.C. 1345.02(A), by accepting partial payment from consumers and beginning work at consumers' residences, but abandoning the work site and refusing to complete performance of the contracted work.
11. Defendants committed unfair or deception acts or practices in violation of the CSPA, R.C. 1345.02(A), and the HSSA, R.C. 1345.23, by failing to offer the proper notice of a consumer's right to cancel the home solicitation sale before three business days after the consumers signed an agreement.
12. Defendants violated the HCSSA, R.C. 4722.02, by entering into home construction services contracts with owners, and not including all of the required information in the contracts, such as Defendants' taxpayer identification number, the anticipated start and completion dates for the project, and providing a copy of Defendants' certificate of general liability coverage in an amount not less than \$250,000.
13. Defendants violated the HCSSA, R.C. 4722.03(A)(3)(f), by entering into home construction services contracts with owners, failing to deliver services in accordance with the terms and conditions of the contract, and failing to provide a full refund within a reasonable time period.
14. Defendants violated the HCSSA, R.C. 4722.04, by taking as a down payment, more than ten per cent of the contract price before the supplier's performance that is required by the contract begins.
15. Defendants violated the HCSSA, R.C. 4722.03(A)(3)(d), by entering into home construction services contracts with owners, and failing to perform the services in a workmanlike manner.

16. The acts or practices described in Conclusions of Law Paragraphs 27 through 34 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).

It is hereby ORDERED, ADJUDGED, and DECREED that:

- A. Plaintiff's request for Declaratory Judgment is **GRANTED**, and it is therefore **DECLARED** that the acts and practices set forth above violate the CSPA, R.C. 1345.01 *et seq.* and its Substantive Rules, the HSSA, R.C. 1345.21 *et seq.*, and the HCSSA, R.C. 4722.01 *et seq.*, in the manner set forth herein.
- B. Defendants, individually or doing business under any other names, their agents, employees, successors or assigns, and all persons acting in concert and participation with them, directly or indirectly, through any corporate device, partnership, or other association, under these or any other names, are hereby PERMANENTLY ENJOINED from engaging in the acts and practices of which Plaintiff complains 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.*, the HSSA, R.C. 1345.21 *et seq.*, and the HCSSA, R.C. 4722.01 *et seq.*
- C. Defendants, individually and doing business under any other names, are hereby PERMANENTLY ENJOINED from engaging in business as a Supplier in any consumer transaction in the State of Ohio until such time as they have satisfied all monetary obligations ordered by this Court, and any other Court in Ohio, in connection with a consumer transaction.
- D. Defendants are ORDERED to pay actual damages to all consumers injured by the conduct of the Defendants as set forth herein in an amount to be determined at a damages hearing to be set at a future date.

- E. Based on the above findings that Defendants committed unfair and deceptive acts and practices in violation of the CSPA, Defendants are **ORDERED** to pay civil penalties, pursuant to R.C. 1345.07(D) and R.C. 4722.07(D), in a total amount to be determined at a damages hearing to be set at a future date.
- F. Defendant are **ORDERED** to pay Plaintiff's costs in bringing this action, including, but not limited to, the costs of collecting on any judgment awarded.
- G. Defendants are **ORDERED** to pay all court costs.

Moreover, while Plaintiff has requested to present testimony via affidavit instead of live testimony at the damages hearing, the Court **DENIES** this request. Due to the allegations in the complaint, Plaintiff's request for damages to be awarded to all consumers, and Plaintiff's request for significant penalties, the Court finds that live testimony is necessary. Plaintiff may submit a memorandum in support of damages, but this will not negate the need for live testimony at the damages hearing. An order of reference will follow referring this matter to Magistrate Saken for a damages hearing.

IT IS SO ORDERED.

TO THE CLERK:

Please mail copies of the foregoing Default Judgment Entry and Order to the Defendants at the following addresses:

Mark A. Koval
1235 Fareharm Drive
New Albany, OH 43054

614 Custom Homes, Inc.
c/o United States Corporation Agents Inc., Statutory Agent
411 Wolf Ledges Parkway, Suite 201
Akron, OH 44311

Franklin County Court of Common Pleas

Date: 12-15-2023
Case Title: STATE OF OHIO EX REL ATTY GEN DAVE YOST -VS- 614
CUSTOM HOMES INC ET AL
Case Number: 23CV002330
Type: ORDER

It Is So Ordered.

A handwritten signature in black ink is written over a circular, faded seal. The signature is stylized and appears to be 'K. Cocroft'. The seal is partially obscured by the signature.

/s/ Judge Kimberly Cocroft