

IN THE COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO

FOR COURT USE ONLY	
S. C. Line #	12

STATE OF OHIO ex rel.  
ATTORNEY GENERAL  
DAVE YOST

Plaintiff,

v.

BRIAN HAMILTON, individually, and  
dba HAMILTON CONSTRUCTION

Defendant.

Case No: A 2304047

Judge: Hon. Jody M. Luebbers

**Final Judgment**  
**Entry and Order**  
**Against Defendant Hamilton**



This matter initially came to be heard upon the filing of Plaintiff's Motion for Default Judgment against Defendant Brian Hamilton ("Plaintiff's Motion for Default"), individually, and doing business as Hamilton Construction. Plaintiff's Motion for Default set forth Plaintiff's requested relief, including declaratory and injunctive relief, consumer restitution, and civil penalties, all of which Plaintiff first requested in its Complaint. Attached to the Motion for Default as evidence to establish consumer damages were the sworn affidavits of nine consumers who suffered monetary damages due to Defendant Hamilton's violations of Ohio consumer protection laws.

The Court finds the Plaintiff's Motion for Default to be well taken and hereby **GRANTS** a Default Judgment against Defendant Hamilton, pursuant to Civ. R. 55(A) and Loc.R. 13(A).

In accordance with R.C. 1345.07(A)(1), Plaintiff's Motion for Default requested an order declaring that Defendant Hamilton engaged in acts and practices that violate the Consumer Sales Practices Act ("CSPA") R.C. 1345.01 et seq. Plaintiff further requested the issuance of a permanent injunction, pursuant to R.C. 1345.07(A)(2), enjoining Defendant Hamilton from engaging in the acts and practices described in the Complaint, including from violating the CSPA.

**RECEIVED**  
ATTORNEY GENERAL OF OHIO

JUN 04 2024

Regarding the Motion for Default's monetary requests, the evidence establishes that the nine consumers who submitted affidavits sustained monetary damages totaling \$47,507.50 and that the imposition of a at least a \$50,000.00 civil penalty is appropriate and permitted by R.C. 1345.07(D).

The Court finds the requests in Plaintiff's Motion for Default well-taken and GRANTS against Defendant Hamilton all of the relief requested.

**Based on the above, the Court renders a final judgment order and entry against Defendant Hamilton and issues the following Findings of Fact, Conclusions of Law, and Orders.**

**FINDINGS OF FACT**

1. Defendant Brian Hamilton is a natural person residing at 7730 Stonesboro Dr., Dayton, Ohio 45424-2264.
2. Defendant Hamilton operated a business under the fictitious name Hamilton Construction, which he never registered with the Ohio Secretary of State.
3. Defendant Hamilton engaged in the business of providing home improvement and construction services to consumers following a personal solicitation of the sale at the consumer's residence.
4. Defendant Hamilton solicited consumers through various home improvement contractor referral websites, such as Angi.com and Thumbtack.com.
5. Defendant Hamilton paid these websites for the leads.
6. Defendant Hamilton did not have a retail business establishment with a fixed permanent location where goods were exhibited or offered for sale on a continuing basis.

7. Defendant Hamilton represented to consumers that he would undertake and complete various construction services and failed to deliver some of the contracted for services within eight weeks.
8. After receiving payment, Defendant in at least one instance began work but failed to complete the work.
9. Defendant represented to consumers that he would provide the contracted for services within an estimated time and then failed to provide the services in the time promised.
10. Defendant provided incomplete, shoddy, and substandard services to consumers and then failed to correct such work.
11. Defendant refused to refund consumers' deposits or payments despite consumers' requests for refunds.
12. At the time of the transactions, Defendant failed to notify consumers of their rights to cancel the transactions and failed to provide consumers with notices of cancellation forms describing the consumers' rights to cancel the transactions.

#### **CONCLUSIONS OF LAW**

13. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA, R.C. 1345.01, et seq.
14. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(3), in that Hamilton County is the county in which Defendant conducted activity that gave rise to the claims for relief, and in which all or part of the claim for relief arose.
15. 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.

16. Defendant Hamilton is a “supplier” as that term is defined in R.C. 1345.01(C) of the CSPA, as he engaged in the business of effecting “consumer transactions” by soliciting consumers either directly or indirectly for household repair services for a fee, within the meaning of R.C. 1345.01(A).
17. Defendant Hamilton engaged in “home solicitation sales” as a “seller” as those terms are defined in the HSSA, 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), (C), and (D).
18. Defendant Hamilton 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 services and then permitting eight weeks to elapse without delivering 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 services of equal or greater value as a good faith substitute.
19. Defendant Hamilton committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by performing shoddy and substandard work and then failing to correct such work. These acts and practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).
20. Defendant Hamilton committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by engaging in consumer transactions under a fictitious business name that is not registered with the Ohio Secretary of State as required by R.C. 1329.01(C). These acts and practices have been previously determined by Ohio courts to violate the

CSPA, R.C. 1345.01 et seq. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

21. 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. These acts and practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

### **ORDER**

For the purposes of affecting this Default Judgment Entry and Order, it is hereby ORDERED, ADJUDGED, and DECREED that:

- A. Plaintiff's request for a Declaratory Judgment is GRANTED, and it is therefore DECLARED, pursuant to R.C. 1345.07(A)(1), that the acts and practices committed by Defendant Hamilton, set forth above, violate the CSPA, its Substantive Rules, O.A.C. 109:4-3-01 et seq. ("Substantive Rules"), and the HSSA, in the manner set forth herein.
- B. Defendant Hamilton, doing business under his own name, the name Hamilton Construction, or any other names, together with his agents, employees, successors or assigns, and all persons acting in concert and participation with him, directly or indirectly, through any corporate device, partnership, or other association, is hereby PERMANENTLY ENJOINED, pursuant to R.C. 1345.07(A)(2), from engaging in any unfair, deceptive, or unconscionable acts or practices that violate the CSPA, its Substantive Rules, or the HSSA, including, without limitation, the conduct described in the Conclusions of Law Paragraphs 18, 19, 20, and 21.

- C. Defendant Hamilton is ORDERED, pursuant to R.C. 1345.07(B), to pay consumer damages in the amount of \$47,507.50, with payment to be made to the Attorney General for distribution to the following nine consumers:

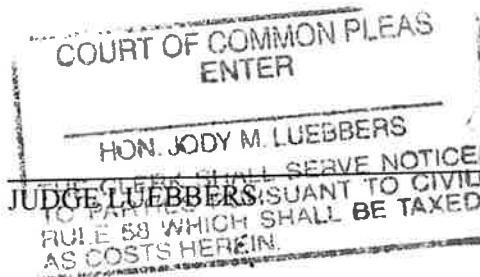
Consumer Last Name	Consumer First Name	Amount Owed
Cawood	Chad	\$3,500.00
Clements	Debbie	\$385.00
Derrickson	Sondra	\$1,512.50
Focke	Tom	\$6,360.00
Goodrich	Nathan	\$6,900.00
Morton	Earl	\$3,325.00
Pendegraft	Mary	\$16,200.00
Roberson	Gregory	\$2,800.00
Wynn	Lisa	\$6,525.00
	<b>TOTAL</b>	<b>\$47,507.50</b>

Payment of the full amount shall be due to the Attorney General within seven days of the entry of this judgment.

- D. Based on the above findings that Defendant Hamilton committed unfair and deceptive acts and practices in violation of the CSPA, Defendant Hamilton is ORDERED, pursuant to R.C. 1345.07(D), to pay the Attorney General civil penalties, in a total amount of \$50,000.00. Payment shall be due within seven days of the entry of this judgment.
- E. Defendant Hamilton is ORDERED to pay Plaintiff collection costs and interest on the unpaid balance of this judgment as permitted by Ohio law.
- F. Defendant Hamilton is ORDERED to pay all court costs associated with this matter.
- G. Defendant Hamilton, pursuant to the Court's authority in R.C. 1345.07(B) to grant other appropriate relief, is hereby ENJOINED from engaging in consumer transactions as a supplier in the State of Ohio until all monetary amounts ordered to be paid in this action have been satisfied.

IT IS SO ORDERED.

\_\_\_\_\_  
DATE



Entry Prepared and Approved By:

DAVE YOST  
Ohio Attorney General

**MAGISTRATE**

MAY 14 2024

**HAS SEEN**

/s/ Tracy Morrison Dickens

Tracy Morrison Dickens (0082898)  
Senior Assistant Attorney General  
Consumer Protection Section  
30 East Broad Street, 14th Floor  
Columbus, Ohio 43215  
(614) 466-3999  
(614) 466-8898 (fax)  
tracy.dickens@ohioAGO.gov  
Counsel for Plaintiff, State of Ohio

TO THE CLERK:

Please mail copies of the foregoing Final Judgment Entry and Order to the Defendant at the following addresses:

Brian Hamilton,  
Hamilton County Justice Center, JMS# 1778183  
900 Sycamore St.  
Cincinnati, Ohio 45202

Brian Hamilton  
7730 Stonesboro Dr.  
Dayton, Ohio 45424-2264

