

JUL 18 2024

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

CASE NO. 23CV001471

JUDGE JEFFREY W. RUPLE

DEFAULT JUDGMENT ENTRY AND ORDER

DEFENDANTS.

The Court makes the following Findings of Fact and Conclusions of Law:

1. Defendant Christopher L. Sullivan is a natural person residing at 6277 Tall Oaks Drive, Mentor, OH 44060.
2. Defendant BuySmart Home Improvements, LLC is a limited liability company registered with the Ohio Secretary of State on August 30, 2021. Defendant Sullivan is the Statutory Agent.

3. Defendants solicit, sell, and install home improvement goods and services, including roof replacements, to consumers.
4. Defendants' business operates out of Defendant Sullivan's home at 6277 Tall Oaks Drive, Mentor, OH 44060.
5. Defendants do not have a retail business establishment having a fixed permanent location where goods are exhibited or services are offered for sale on a continuing basis.
6. Defendants represent to consumers that they will undertake and complete various construction services and, in some instances, failed to deliver the contracted for services within eight weeks.
7. Defendants enter into contracts with consumers to provide roof replacements.
8. Defendants require consumers to make a down payment for their goods and services at the time they enter into the sales contract.
9. After receiving a down payment, Defendants sometimes failed to deliver the product at all.
10. Sometimes, Defendants failed to refund consumers' deposits or payments despite consumers' requests for refunds.
11. At the time of the transactions, Defendants sometimes fail to notify consumers of their rights to cancel the transactions and fail to provide consumers with notices of cancellation forms describing the consumers' rights to cancel the transactions.

CONCLUSIONS OF LAW

12. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
13. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(1) and (2), in that Lake County is the county where Defendant Sullivan resides and where Defendant BuySmart is located.

14. 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.*
15. Defendants are “suppliers,” as they engage in the business of effecting “consumer transactions” by soliciting “consumers” either directly or indirectly for home improvement services, including roof replacements, for purposes that are primarily for personal, family, or household use, as those terms are defined by R.C. 1345.01(A), (C), and (D).
16. Defendant Sullivan, at all times pertinent hereto, controlled and directed the business activities and sales conduct of Defendant BuySmart causing, personally participating in, or ratifying the acts and practices of Defendant BuySmart, including the conduct giving rise to the violations described herein.
17. Defendants are engaged in “home solicitation sales” as a “seller” as those terms are defined in the HSSA, R.C. 1345.21, as they make personal solicitations of their sales at the residences of buyers, within the meaning of R.C. 1345.21(A), (C), and (D).
18. 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 services and then permitting eight weeks to elapse without making delivery of the 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. Defendants committed unfair or deceptive 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.

20. The acts or practices described in Conclusions of Law Paragraphs 18 and 19 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).

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 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, and the HSSA, R.C. 1345.21 *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 and the HSSA, R.C. 1345.21 *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 upon Plaintiff's submission of a memorandum on damages and 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), in a total amount to be determined upon Plaintiff's submission of a memorandum on damages and 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.

Furthermore, Plaintiff's Request to submit testimony by affidavits regarding the damages suffered by consumers is hereby GRANTED. Plaintiff will be permitted to submit evidence of consumer damages by affidavits instead of in person testimony by the consumers if submitted at least seven (7) days before the damages hearing scheduled for February 20, 2024, at 2:30 p.m.

IT IS SO ORDERED




Judge Jeffrey W. Ruple

TO THE CLERK:

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

Christopher L. Sullivan
6277 Tall Oaks Drive
Mentor, OH 44060

BuySmart Home Improvements, LLC
c/o Christopher L. Sullivan, Registered Agent
6277 Tall Oaks Drive
Mentor, OH 44060

PREPARED BY:

DAVE YOST
OHIO ATTORNEY GENERAL

/s/ Kevin R. Walsh
KEVIN R. WALSH (0073999)
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**IN THE COURT OF COMMON PLEAS
LAKE COUNTY, OHIO**

OHIO ATTORNEY GENERAL)	CASE NO. 23CV001471
)	
Plaintiff(s))	JUDGE JEFFREY W. RUPLE
)	
vs.)	<u>ORDER AWARDING</u>
)	<u>DAMAGES</u>
)	
CHRISTOPHER L. SULLIVAN,)	
et al.)	
)	
Defendant(s))	

On January 19, 2024 the court granted default judgment in favor of the plaintiff against Defendants Christopher L. Sullivan and Buy Smart Home Improvements, LLC. The court found that both defendants committed unfair and deceptive acts in violation of the Failure to Deliver Rule, O.A.C. 109:4-3-09(A), the CSPA, R.C. 1345.02(A), and the HSSA, R.C. 1345.23. The court held the issue of damages in abeyance.

On February 7, 2024, the plaintiff filed a memorandum in support of damages and other requested relief. Upon review, the court finds that the memorandum contains proper evidentiary materials supporting awards for both consumer damages and civil penalties against the defendants. Accordingly, the Ohio Attorney General is hereby granted judgment against Defendants Christopher L. Sullivan and Buy Smart Home Improvements, LLC, jointly and severally, as follows:

- 1) Consumer damages in the amount of \$6,500.00, to be paid to the Consumer Protection Section of the Ohio Attorney General's office for distribution to Joyce Gurgol and Beverly Harris-Wiley;
- 2) Civil penalties in the amount of \$30,000.00 pursuant to R.C. 1345.07(D);
- 3) Interest at the statutory rate from the date of this entry and costs.

IT IS SO ORDERED.




Judge Jeffrey W. Ruple

FINAL APPEALABLE ORDER

Clerk to serve pursuant to

Civil Rule 53 (8)

c: Kevin Walsh, Esq., Attorney for Plaintiff
Christopher L. Sullivan
Buy Smart Home Improvements, LLC