

SEP 27 2024

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ATTORNEY GENERAL OF OHIO

IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO

STATE OF OHIO, ex rel.
DAVE YOST

Plaintiff,

-vs-

ENERGY WISE HOME
IMPROVEMENTS, INC., et al.,

Defendants.

CASE NO. 2018-CV-02780

JUDGE ANTHONY MD' APOLITO

CONSENT JUDGMENT AND
FINAL AGREED ENTRY AND ORDER
BETWEEN PLAINTIFF AND
DEFENDANTS ENERGY WISE AND
ANTHONY PORRAZZO, JR.

This matter came upon the filing of a complaint by Plaintiff, the Attorney General of Ohio, on November 20, 2018 charging Defendants Energy Wise Home Improvements, Inc., ("Energy Wise") Anthony Porrazzo, Jr. ("Porrazzo") and Scott T. Cross ("Cross") with violations of the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 *et seq.*, and its Substantive Rules, Ohio Administrative Code ("O.A.C.") 109:4-3-01 *et seq.* Defendants Energy Wise and Porrazzo filed answers to the Complaint.

This Consent Judgment and Final Agreed Entry and Order is between Plaintiff and Defendants Energy Wise Home Improvements, Inc., and Anthony Porrazzo (collectively "Defendants" or "Porrazzo Defendants" herein). Plaintiff and the Porrazzo Defendants have agreed to settle and resolve all remaining matters contained herein and all claims alleged against the Porrazzo Defendants. By signing this Consent Judgment and Final Agreed Entry and Order ("Consent Judgment"), the Porrazzo Defendants hereby submit to the personal jurisdiction of the Court, consent to the entry of this Consent Judgment pursuant to R.C. 1345.07 and to the imposition of this Consent Judgment and the rights of Plaintiff to enforce same. Any service of process issues or other defects are hereby waived.

The Parties have voluntarily entered into this Consent Judgment and agreed to settle and resolve the matters contained herein in order to avoid protracted and costly litigation and to bring about a prompt resolution to this controversy.

FINDINGS OF FACT

1. Defendant Energy Wise Home Improvements, Inc. ("Energy Wise") is an Ohio corporation, registered with the Ohio Secretary of State, with its last principal place of business having been located on 5164 Youngstown-Poland Road, Youngstown, OH 44514.
2. Defendant Anthony Porrazzo, Jr. ("Porrazzo") is the owner and, since June 23, 2018, President of Energy Wise.
3. Defendants solicited consumers for home improvement services in Mahoning County and other counties in the State of Ohio.
4. In some instances, Defendants accepted payments to Energy Wise for home improvement contracts and failed to deliver any goods or services pursuant thereto.
5. In some instances, Defendants accepted payments made payable to Energy Wise for home improvement contracts and only partially performed the work before abandoning the worksite.
6. In some instances, representations were made to consumers that the consumer transaction involved a warranty which Energy Wise then failed to fulfill, to the detriment of those consumers.
7. In some instances, Energy Wise provided shoddy and substandard home services to consumers and failed to correct such services.

8. Plaintiff has alleged that Porrazzo personally directed, supervised, approved, controlled, formulated, authorized, ratified, caused, personally participated in, benefitted from and/or otherwise participated in the day-to-day activities and practices of Defendant Energy Wise, including the conduct described in this Complaint and the foregoing actions of Energy Wise described in Paragraphs 3 through 7 hereof. Porrazzo has denied such claims.
9. In October 2018, Defendant Energy Wise abruptly shuttered its home improvement business and ceased providing goods and services to consumers and failed to give refunds to consumers.
10. The abrupt shuttering of the business resulted in harm to consumers and required some consumers to incur additional expenses to have the contracted work completed and/or corrected.
11. Since the commencement of this action, both Defendant Anthony Porrazzo and Defendant Energy Wise filed Chapter 7 bankruptcy cases in the U.S. Bankruptcy Court, Northern District of Ohio.
12. Defendant Energy Wise's bankruptcy was case number 19-41990 in the U.S. Bankruptcy Court, Northern District of Ohio, and that case terminated December 13, 2023.
13. Defendant Porrazzo's bankruptcy was case number 20-40181 in the U.S. Bankruptcy Court, Northern District of Ohio. Defendant Porrazzo received a discharge on September 10, 2020, and the case terminated October 3, 2023.
14. Over 200 consumers filed complaints with the Ohio Attorney General's Office and claimed substantial losses.
15. As any monetary distributions had to be approved by the bankruptcy court, consumers who alleged to have been damaged by the unfair and deceptive acts and practices had the

opportunity to file Proofs of Claim or otherwise pursue their individual monetary claims in the bankruptcy cases.

16. In March 2020, the Parties hereto entered into an Agreed Entry and Order in the within action, which temporarily enjoined the Defendants from certain acts and practices in violation of the CSPA, and enjoined Defendant Porrazzo from operating as a supplier in the state of Ohio. Per this Order, the temporary injunction would continue until such time as the relevant bankruptcy determinations were concluded and the state court litigation reactivated.
17. On January 9, 2024, Plaintiff filed a Notice with the Mahoning County Court of Common Pleas indicating that all relevant bankruptcy matters were concluded, along with a Motion to Reactivate the matter.

CONCLUSIONS OF LAW

18. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
19. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1) and (3).
20. The Attorney General of Ohio 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 the CSPA.
21. Plaintiff is entitled to continue with these proceedings and enter into this Consent Judgment pursuant to Plaintiff's police and regulatory powers.
22. Civil penalties assessed for violations of the CSPA are in the nature of a fine, penalty, or forfeiture payable to and for a government unit and, pursuant to 11 U.S.C. 523(a)(7), are excepted from Defendant Porrazzo's bankruptcy discharge.

23. Defendants were "suppliers," as that term is defined in R.C. 1345.01(C), as they engaged in the business of effecting and soliciting "consumer transactions" by soliciting individual consumers either directly or indirectly for goods and services, including home improvement goods and services, within the meaning of R.C. 1345.01(A).
24. 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, specifically home improvement goods and services, and then permitting more than eight weeks to elapse without providing the goods ordered, making a full refund, advising consumers of the duration of an extended delay and offering to send a refund within two weeks if so requested, or furnishing similar goods or equal or greater value as a good faith substitute.
25. Defendants committed unfair or 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.
26. Defendants committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by representing to consumers that the consumer transaction involved a warranty and then failed to fulfill their obligations pursuant to the warranty.

ORDER

- A. Plaintiffs request for the issuance of a declaratory judgment finding that each act or practice set forth above violates the CSPA, R.C. 1345.01 *et seq.*, and its Substantive Rules, O.A.C. 109:4-3-01 *et seq.*, is hereby **GRANTED**.

- B. Defendant Energy Wise ceased its operations in 2018, but still exists as an active corporation with the Ohio Secretary of State. It is **ORDERED** that Defendants shall no longer operate the business previously known as Energy Wise Home Improvements, Inc.
- C. Defendant Porrazzo, doing business under Energy Wise Home Improvements, Inc., his own name or any other names, directly or indirectly, through any corporate device, partnership or association, in connection with any home improvement consumer transaction, is hereby **PERMANENTLY ENJOINED** from engaging in any unfair, deceptive or unconscionable acts and practices that violate the CSPA, R.C. 1345.01 *et seq.*, or its Substantive Rules, O.A.C. 109:4-3-01 *et seq.*, including, without limitation, violations of the specific statutes and rules described in this Consent Judgment.
- D. Defendant Porrazzo is hereby **PERMANENTLY ENJOINED** from having any ownership interest in or position of control in any home improvement business related to the solicitation or sale or provision of home improvement goods and/or services to consumers in the state of Ohio. Nothing in this provision shall prohibit Defendant Porrazzo from engaging in the solicitation and sale of home improvement goods and/or services for another entity, provided that Defendant does not own, operate or assume any position that affords Defendant the authority or ability to set consumer-related policies and procedures, control, and/or direct the consumer-related sales conduct of the entity.
- E. Defendant Energy Wise and Defendant Porrazzo are jointly and severally liable for and **ORDERED** to pay a civil penalty pursuant to R.C. 1345.07(D), in the amount of \$25,000.00. This \$25,000.00 civil penalty is suspended and shall not be enforceable as long as Defendants comply with all provisions of this Consent Judgment, including the provisions in paragraphs B, C and D. Failure to comply with this Consent Judgment shall

make the full civil penalty immediately become due and payable to the Ohio Attorney General's Office Consumer Protection Section.

- F. It is further **ORDERED** that in the event the Ohio Attorney General must initiate legal action or incur any costs to compel Defendants to abide by this Consent Judgment, Defendant Porrazzo shall be liable to the Ohio Attorney General, should the Ohio Attorney General prevail, for all related enforcement costs, including, but not limited to, a reasonable sum for attorneys' fees, investigative costs and interest and collection costs as permitted by Ohio law including, but not limited to R.C. 131.02, 109.08 and 109.081.
- G. Defendants shall not represent, directly or indirectly, that the Ohio Attorney General has sanctioned, condoned, or approved any part or aspect of their business operations.
- H. Defendants are jointly and severally liable for and shall pay all court costs associated with this action.

IT IS SO ORDERED.

DATE

JUDGE D'APOLITO

JOINTLY APPROVED FOR ENTRY AND SUBMITTED BY:

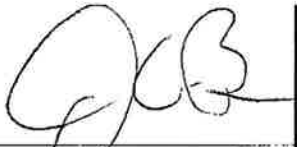
DAVE YOST
OHIO ATTORNEY GENERAL



9/25/2024

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Defendant Energy Wise Home Improvements, Inc.*

9/16/24
Date L L

ANTHONY J. PORRAZZO, JR.

Date

cc: Plaintiff State of Ohio
Defendant Anthony Porrazzo
Defendant Energy Wise Home Improvements, Inc.
Defendant Scott Cross

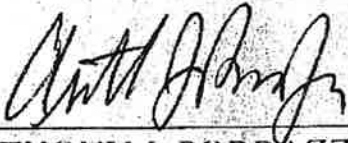
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9/16/24
Date



ANTHONY J. PORRAZZO, JR.

9/16/24
Date

cc: Plaintiff State of Ohio
Defendant Anthony Porrazzo
Defendant Energy Wise Home Improvements, Inc.
Defendant Scott Cross



Case Title: STATE OF OHIO, EX REL -vs- ENERGY WISE HOME
IMPROVEMENTS INC et al AMD
Case Number: 2018 CV 02780
Type: JE> SEE ATTACHED IMAGE

So Ordered

A handwritten signature in dark ink, appearing to be a stylized name, possibly "J. E. >".

Electronically signed on 2024-09-26 page 10 of 10