

NOV 22 2024
CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE
N. O'CONNELL

Case No: 22 CV 05767

JUDGE TIMOTHY N. O'CONNELL

CONSENT JUDGMENT AND ENTRY AS TO DAMAGES AND CIVIL PENALTIES

Plaintiff and Defendant Wood subsequently reached an agreement, as set forth herein, regarding the specific monetary amounts to be ordered for the consumer damages and civil penalties. In connection with the same, Defendant Wood stipulates and agrees to the factual findings and conclusions of law set forth in the Default Judgment Order, and further stipulates and agrees to the following:

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3. Five consumers incurred damages as a result of contracts they entered into with the Defendants for the purchase of residential fence removal, repair, and/or installation services.
4. These five consumers paid Defendants for the services pursuant to a contract between the parties, but after payment, Defendants either (i) failed to perform any work without refunding the consumers' payments; or (ii) performed some work, but then abandoned the worksite without returning or refunding any of the consumers' payments.
5. In their sale of these services, Defendants also failed to properly notify the consumers of their rights to cancel their transactions and failed to provide the consumers with notice of cancellation forms describing the consumers' rights to cancel the transactions within three business days.
6. As a result, each of these consumers is entitled to consumer damages in the following amounts:

Last Name	First Name	Amount
Miller	Lisa	\$2,575.00
Little	Lloyd	\$2,000.00
Leisring	Janice	\$2,450.00
Boettger	Wendy	\$3,700.00
Habib	Phillip	\$3,440.00
	TOTAL	\$14,165.00

Plaintiff and Defendant Wood agree that the consumer damages above in the aggregate amount of \$14,165.00 shall be paid pursuant to the payment schedule and terms set forth below in the Court's Orders. Plaintiff and Defendant Wood further agree to the assessment of a civil penalties in the amount of \$10,000.00, which Plaintiff agrees to suspend in full contingent upon compliance with the terms and conditions set forth below in the Court's Orders.

Based on (i) the agreement reached between Defendant Wood and Plaintiff; (ii) Defendant Wood's stipulations above, including but limited to, Defendant Wood being the sole owner, operator, and representative of Defendant B&R; and (iii) the Court's prior Default Judgment Order against both Defendants, including its factual findings, conclusions of law, and orders contained therein, the Court also finds Defendant B&R to be jointly and severally liable with Defendant Wood for the consumer damage and civil penalty amounts and payment terms agreed to by Defendant Wood.

Therefore, the Court fully incorporates herein its factual findings and conclusions of law in the Default Judgment Order and restates below its orders in the Default Judgment Order with the addition of specific orders regarding the amount and payment of the consumer damages and civil penalties. Accordingly, the Court hereby ORDERS the following:

- A. As set forth in the Default Judgment Order, Plaintiff's request in its Complaint for Declaratory Judgment is GRANTED, and it is therefore DECLARED, pursuant to R.C. 1345.07(A)(1), that the acts and practices set forth in the Default Judgment Order violate the Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 *et seq.*, its Substantive Rules, O.A.C. 109:4-3-01 *et seq.*, and the Home Solicitation Sales Act ("HSSA"), R.C. 1345.21 through R.C. 1345.28, in the manner set forth in the Default Judgment Order.
- B. As set forth in the Default Judgment Order, Defendants, 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 their own or any other names, are PERMANENTLY ENJOINED, pursuant to R.C. 1345.07(A)(2), from engaging in any acts or practices that violate the CSPA, its Substantive Rules, or the HSSA, including, without limitation, the conduct described in

Paragraphs 17 through 19 of the Default Judgment Order.

- C. Pursuant to R.C. 1345.07(B), Defendants are ORDERED, jointly and severally, to pay \$14,165.00 in consumer damages. Payment of the foregoing amount shall be made at the rate of \$100.00 per month for 35 months with a final 36th payment of \$10,665.00. The first payment is due on the first day of the full month following entry of this Consent Judgment and Entry with the remaining payments continuing on the first day of each subsequent month until paid in full. Payments will be distributed, at the discretion of the Plaintiff, to the following five (5) consumers in the amounts set forth below:

Last Name	First Name	Amount
Miller	Lisa	\$2,575.00
Little	Lloyd	\$2,000.00
Leisring	Janice	\$2,450.00
Boettger	Wendy	\$3,700.00
Habib	Phillip	\$3,440.00
	TOTAL	\$14,165.00

- D. Pursuant to R.C. 1345.07(D), Defendants are ORDERED, jointly and severally, to pay a civil penalty of \$10,000.00. Payment of the foregoing amount shall be suspended in full so long as the consumer damages ordered in Paragraph C are paid in accordance with the payment schedule set forth therein and Defendants comply with all other paragraphs of this Consent Judgment and Entry.
- E. It is further ORDERED that if the Defendants fail to timely make any of the payments due in accordance with the payment schedule set forth in Paragraph C, the remaining consumer damages and suspended civil penalty amounts shall immediately become due and payable.
- F. The payments ordered in Paragraph C shall be made to the Attorney General via a certified check or money order, made payable to the "Ohio Attorney General's Office" and

delivered to:

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

- G. It is further ORDERED that the acceptance of any payment by the Plaintiff subsequent to the time it is due or the failure of the Plaintiff to insist on strict performance of any order contained within this Consent Judgment and Entry, including, but not limited to, the obligation created by the acceleration provision in Paragraph E of this Consent Judgment and Entry, shall not be construed as a waiver of any of the obligations created by this Consent Judgment and Entry.
- H. Defendants are hereby notified that if they fail to make any payment due in accordance herein, the unpaid amount due under this Consent Judgment and Entry may be referred to the Ohio Attorney General's Collection Enforcement Section for collection. Should the unpaid amount be referred for collection, the Collections Enforcement Section will assess additional collection fees and interest pursuant to Ohio law, including, but not limited to R.C. 131.02, 109.08, and 109.081.
- I. It is further ORDERED that in the event the Ohio Attorney General must initiate legal action or incur any costs to compel the Defendants to abide by this Consent Judgment and Entry, the Defendants shall be liable to the Ohio Attorney General, should he 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 statute.
- J. As set forth in the Default Judgment Order, Defendants are ENJOINED, pursuant to R.C. 1345.07(B), from engaging in consumer transactions as suppliers in the State of Ohio until

all monetary amounts ordered to be paid in this action have been satisfied.

- K. As set forth in the Default Judgment Order, Defendants are ORDERED, jointly and severally, to pay all court costs associated with this matter.

IT IS SO ORDERED.

DATE

JUDGE TIMOTHY N. O'CONNELL

JOINTLY APPROVED FOR ENTRY AND SUBMITTED BY:

DAVE YOST
Ohio Attorney General

By: /s/ W. Travis Garrison
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Defendant



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

Case Number:
2022 CV 05767

Case Title:
STATE OF OHIO EX REL ATTORNEY GENERAL DAVE
YOST vs B R FENCE AND MORE LLC

Type:

Final Judgment Entry

So Ordered,

Timothy N. O'Connell

