

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO, ex rel.,)
ATTORNEY GENERAL DAVE YOST,)
30 E. Broad St., 14th floor)
Columbus, Ohio 43215)

Plaintiff,)

vs.)

Josh Powers Design and Remodel, LLC)
c/o Josh A. Powers, Statutory Agent)
1374 Summit Street)
Columbus, Ohio 43201)

And)

Josh A. Powers, Individually)
2252 Bruce Rd., Apt. 23)
Delaware, Ohio 43015)

Defendants.)

CASE NO.

JUDGE:

**COMPLAINT AND REQUEST
FOR INJUNCTIVE AND
DECLARATORY RELIEF,
CONSUMER RESTITUTION
AND CIVIL PENALTIES**

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through Attorney General of Ohio Dave Yost, having reasonable cause to believe that violations of Ohio’s consumer protection laws have occurred, brings this action in the public interest and on behalf of the State of Ohio under the authority vested in him by the Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq.
2. The actions of Defendants, hereinafter described, have occurred in Franklin County as well as other counties around the State of Ohio, and are in violation of the Ohio 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 et seq.

3. This Court has jurisdiction over the subject matter of this action pursuant to R.C. 1345.04 of the CSPA.
4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(2) and (3), in that Defendants' business is located in Franklin County and some of the transactions complained of herein, and out of which this action arises, have occurred within Franklin County, Ohio.

DEFENDANTS

5. Defendant Josh Powers Design and Remodel, LLC ("Josh Powers, LLC") is an active limited liability corporation registered with the Ohio Secretary of State since July 13, 2020.
6. Defendant Josh Powers is an individual ("Powers") who resides at 2252 Bruce Road, Apt. 23, Delaware, Ohio 43015. Defendant Powers is the Statutory Agent of Defendant Josh Powers, LLC.
7. Defendant Powers, at all times relevant to this action, owned, 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 Josh Powers, LLC.
8. Defendants are each "suppliers" as they engaged in the business of effecting "consumer transactions" by soliciting "consumers" either directly or indirectly for home improvement and construction goods and services for a fee, for purposes that were primarily for personal, family, or household use, as those terms are defined in R.C. 1345.01(A), (C) and (D).
9. Defendants, as described below, were at all relevant times hereto "sellers" engaged in the business of effecting home solicitation sales by soliciting and selling home improvements to "buyers" at the buyers' personal residences in Franklin County as well as other counties

in the State of Ohio, for purposes which were primarily personal, family, or household within the meaning specified in R.C. 1345.21(A) and (E).

STATEMENT OF FACTS

10. Defendants Josh Powers Design and Remodel, LLC and Josh Powers provide home improvement and home construction services to consumers in Ohio, including Franklin County.
11. Defendants solicited consumers for home improvement goods and services in Franklin County, Ohio as well as other counties within the State of Ohio.
12. Defendants solicited and sold these home improvement goods and services at the residences of Ohio consumers.
13. Defendants accepted down payments for home improvement goods and services.
14. Defendants accepted down payments for home improvement goods and services.
15. In some instances, Defendants accepted payments for home improvement goods and services but did not provide the full home improvement goods or services or provide refunds for the contracted goods or services that weren't delivered.
16. In some instances, Defendants provided some home improvement goods or services, but did not provide them in full, or complete the work contracted for, within a reasonable time or provide a timely refund.
17. In some instances, Defendants accepted partial payment for the home improvement goods and services and started performance of the services, but thereafter abandoned the worksite and failed to complete performance or provide a refund.
18. In some instances, Defendants provided some work pursuant to the contract with

consumers, but the work done was substandard and unworkmanlike.

19. In some instances, Defendants failed to provide consumers with a separate, appropriately worded Notice of Cancellation detailing their cancellation rights under Ohio law.

PLAINTIFF'S FIRST CAUSE OF ACTION
VIOLATIONS OF CONSUMER SALES PRACTICES ACT

CSPA COUNT I:
FAILURE TO DELIVER

20. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
21. Defendants have committed unfair and 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. 1345.02A), by accepting money from consumers for goods and services and then permitting eight weeks to elapse without making shipment or delivery of the goods or services ordered, making a full refund, advising the consumer of the duration of any extended delay and offering to send a refund within two weeks if requested, or furnishing similar goods or services of equal or greater value as a good faith substitute.

COUNT II:
SHODDY AND SUBSTANDARD WORK

22. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
23. Defendants committed unfair or 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.
24. The acts or practices described above have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.02. Defendants committed said violations after such

decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

PLAINTIFF'S SECOND CAUSE OF ACTION
VIOLATION OF THE HOME SALES SOLICITATION ACT

FAILURE TO GIVE 3-DAY NOTICE OF CANCELLATION

25. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
26. Defendants engaged in home solicitation sales pursuant to the HSSA, R.C. 1345.21 et seq., in that Defendants procured the sale of consumer goods or services at the residences of consumers.
27. Defendants violated the HSSA, R.C. 1345.23(B), by failing to include appropriate cancellation language in the contracts entered into with consumers, or giving consumers a separate, appropriate “notice of cancellation” required by R.C. 1345.23(B)(2) or otherwise informing consumers of how and when to give notice of cancellation as required by R.C. 1345.23(B)(3).
28. The acts and practices described above 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).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. ISSUE A DECLARATORY JUDGMENT** declaring that each act or practice complained of herein violates the CSPA, R.C. 1345.01 et seq., and the HSSA, R.C. 1345.21 et seq., in the manner set forth in the Complaint.
- B. ISSUE A PERMANENT INJUNCTION** enjoining Defendants, under these or any other names, their agents, representatives, salesmen, employees, successors and

assigns and all persons acting in concert or participation with Defendants, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains and from any further violations of the CSPA, R.C. 1345.01 et seq., and the HSSA, R.C. 1345.21 et seq.

- C. **ORDER** Defendants, pursuant to R.C. 1345.07(B), to pay actual damages to all consumers injured by the conduct of the Defendants as set forth in this Complaint.
- D. **ASSESS, FINE AND IMPOSE** upon Defendants civil penalties in the amount of Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation of the described herein pursuant to R.C. 1345.07(D).
- E. **ISSUE AN INJUNCTION** prohibiting Defendants from engaging in business as a Supplier in any consumer transaction in this state until such time as Defendants have satisfied all monetary obligations ordered by this Court, and any other Court in Ohio in connection with a consumer transaction.
- F. **GRANT** Plaintiff his costs incurred in bringing this action, including, but not limited to, the costs of collecting on any judgment awarded.
- G. **ORDER** Defendants to pay all court costs associated with this matter.
- H. **GRANT** such further relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

DAVE YOST
OHIO ATTORNEY GENERAL

/s/ Rebecca F Schlag

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