

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO ex rel.)	
ATTORNEY GENERAL DAVE YOST)	
30 E. Broad St., 14 th Floor)	Case No:
Columbus, Ohio 43215)	Judge:
)	
Plaintiff,)	COMPLAINT AND REQUEST FOR
)	DECLARATORY JUDGMENT,
v.)	INJUNCTIVE RELIEF, CONSUMER
)	RESTITUTION, CIVIL PENALTIES,
JOSEPH SLYE,)	AND OTHER APPROPRIATE RELIEF
5890 Alouette Court)	
Galloway, Ohio 43119)	
)	
and)	
)	
DAVID HARVEY)	
511 Oak Village Drive)	
Columbus, Ohio 43207)	
)	
and)	
)	
MAGIC TOUCH EXTERIORS, LLC)	
c/o Darren Richard, Registered Agent)	
2018 Bedford Rd.)	
Columbus, Ohio 43212)	
)	
Defendants.)	
)	

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through its counsel, the 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 Consumer Sales Practices Act (“CSPA”), R.C. 1345.01 *et seq.*

2. The actions of Joseph Slye, David Harvey, and Magic Touch Exteriors, LLC (“Defendants”), hereinafter described, have occurred in Franklin and other counties in the State of Ohio and, as set forth below, are in violation of the CSPA, R.C. 1345.01 *et seq.* and its Substantive Rules, Ohio Adm.Code 109:4-3-01 *et seq.*, and the Home Solicitation Sales Act (“HSSA”), R.C. 1345.21 *et seq.*
3. Jurisdiction over the subject matter of this action lies with this Court 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)(1) and (3), in that Defendant Slye and Defendant Harvey reside in Franklin County and it is the county where Defendants conducted some of the activity giving rise to the claims for relief.

DEFENDANTS

5. Defendant Joseph Slye (“Slye”) is a natural person residing at 5890 Alouette Court, Galloway, Ohio 43119.
6. Defendant David Harvey (“Harvey”) is a natural person residing at 511 Oak Village Drive, Columbus, Ohio 43207.
7. Defendant Magic Touch Exteriors, LLC (“Magic Touch”) is a domestic Limited Liability Company registered with the Ohio Secretary of State on September 16, 2019.
8. Defendants Slye and Harvey, at all times relevant to this action, controlled and directed the business activities and sales conduct of Magic Touch, causing, personally participating in, or

ratifying the acts and practices of the same, including the conduct giving rise to the violations described herein.

9. On information and belief, Defendant Harvey was the owner of Defendant Magic Touch and operated the production business for Defendant Magic Touch. In this capacity, Defendant Harvey worked with the product suppliers to obtain suppliers for the jobs and subcontractors to complete storm damage repairs, including roof, siding and gutter repairs and replacements.
10. On information and belief, Defendant Slye was the general manager of operations for Defendant Magic Touch and operated the sales business for Defendant Magic Touch. As the general manager, Defendant Slye worked with the salesmen and project managers to sell the storm damage repairs, including roof, siding and gutter repairs and replacements. Defendant Slye also negotiated the scope of repairs with the consumers' insurance companies.
11. Defendants are each a "supplier," 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).
12. Defendants are each a "seller," engaging in "home solicitation sales" of "consumer goods or services" as those terms are defined in the HSSA, R.C. 1345.21(A), (C), and (E), because Defendants engaged in personal solicitations at the residences of consumers, including solicitations in response to or following invitations by consumers.

STATEMENT OF FACTS

13. Defendants solicit and sell home improvement goods and services, typically storm damage repairs including roof, siding and gutter repair replacements, to consumers at the consumers' residences.
14. 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.
15. Defendants enter into contracts with consumers to provide various home improvement services, typically storm damage repairs including roof, window and siding repairs and replacements.
16. Defendants travel around the state of Ohio, and into other states, into areas that have recently been hit by storms.
17. Defendants approach consumers' residences and knock on doors in an attempt to get consumers to enter into contracts for repairs to their homes caused by storm damage.
18. Typically, consumers have either made insurance claims related to the storm damage or Defendants suggest they do so.
19. In some cases, Defendants worked directly with consumers' insurance companies on consumers' behalf to determine the scope of work and cost.
20. Defendants enter into contracts with consumers to provide various home improvement services, typically storm damage repairs, including roof, gutter and siding repairs and replacements.
21. The contracts are based on the work and monetary amount allowed by the consumers' insurance claims.

22. Under the contracts, Defendants accepted down payments for various home improvement services, typically storm damage repairs including roof and siding repairs and replacements.
23. Payments to Defendants matched the amount approved by the consumers' insurance companies or the amounts that the insurance companies actually paid the consumers.
24. Defendants represented to consumers that they would undertake and complete various home improvement services, typically storm damage repairs including roof and siding repairs and replacements and, in some instances, and failed to deliver the contracted for services within eight weeks of the contract date or promised start date.
25. Defendants did not provide consumers with refunds of deposits paid when Defendants did not perform the contracted work.
26. At the time of the transactions, Defendants' contracts failed to provide consumers with notice of cancellation forms describing consumers' three-day right to cancel the transactions.

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

COUNT I- FAILURE TO DELIVER

27. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
28. Defendants committed unfair or deceptive acts or practices in violation of the Failure to Deliver Rule, Ohio Adm.Code 109:4-3-09(A), and the CSPA, R.C. 1345.02(A), by accepting money from consumers for goods and services and then permitting eight weeks to elapse without making shipment or delivery of the goods and 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 goods or services of equal or greater value as a good faith substitute.

29. The acts or practices described above are in violation of Ohio Adm.Code 109:4-3-09(A), which was adopted on June 5, 1973 and was last amended on March 14, 2005. Defendants committed said violations after the adoption of the Administrative Code section.

COUNT II- INCOMPLETE WORK AND ABANDONING WORKSITES

30. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.

31. Defendants committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by beginning work on consumers' homes after receiving a deposit but then abandoning the worksites, leaving incomplete work, and refusing to complete such work.

32. The acts or 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).

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

COUNT 1-FAILURE TO OFFER THREE DAY RIGHT TO CANCEL

33. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.

34. Defendants committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), and the HSSA, R.C. 1345.23(B), by failing to provide the proper notice of consumers' right to cancel the home solicitation sale before three business days after the consumers signed an agreement.

35. The acts or 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 grant the following relief:

- A. ISSUE A DECLARATORY JUDGMENT that each act or practice complained of herein violates the CSPA, R.C. 1345.01 *et seq.*, and its Substantive Rules Ohio Adm.Code 109:4-3-01 *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 the 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 these or any other names, 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, Ohio Adm.Code 109:4-3-01 *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 a civil penalty of up to \$25,000.00 for each separate and appropriate violation of the CSPA described herein pursuant to R.C. 1345.07(D).
- E. ISSUE AN INJUNCTION prohibiting Defendants from engaging in business as suppliers in any consumer transactions 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 its 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 other relief as the court deems to be just, equitable, and appropriate.

Respectfully submitted,

DAVE YOST
Attorney General

s/ Teresa A. Heffernan

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