

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

FILED
LORAIN COUNTY

2013 NOV 14 A 9:06

STATE OF OHIO, ex rel.)
MICHAEL DEWINE)
ATTORNEY GENERAL)
615 W. SUPERIOR, 11TH FL.)
Cleveland, Ohio 44113-1899)

Plaintiff,)

v.)

MARK WALKER)
34453 LAUREL WAY)
AVON, OHIO 44011)

and)

ALL AMERICAN RESTORATION, LLC)
33501 LAKE ROAD)
AVON LAKE, OHIO 44012)

Defendants.)

CASE NO.

JUDGE

CLERK OF COMMON PLEAS
RON NABAKOWSKI
13CV181972

JUDGE MARK A. BETLESKI

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

JURISDICTION

1. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Michael DeWine, 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 R.C. 1345.01 et seq. (the Ohio Consumer Sales Practices Act).

2. The actions of Defendants Mark Walker and All American Restoration, LLC, hereinafter described, have occurred in the State of Ohio, County of Lorain, and as set forth below, are in violation of R.C. 1345.01 et seq.

3. Defendants are “suppliers,” as that term is defined in R.C. 1345.01(C), as Defendants engaged in the business of effecting “consumer transactions” by offering home improvement goods and services for a fee, within the meaning of R.C. 1345.01(A).

4. Jurisdiction over the subject matter of this action lies with this Court pursuant to the Ohio Consumer Sales Practices Act, R.C. 1345.04.

5. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3), in that Lorain is the county in which the Defendants reside, have their principal place of business, and is where many of the transactions complained of herein occurred.

STATEMENT OF FACTS

6. Defendants have solicited consumers for home improvement services in Ohio. Defendants’ business is incorporated, and is located in Lorain County. “All American Restoration LLC” is registered with the Ohio Secretary of State as a trade or fictitious name. Defendant Walker operated “All American Restoration” at 33501 Lake Road, Avon Lake, Ohio until its’ closure.

7. Defendants have solicited and failed to perform the construction of major home improvement services contracted with consumers. Defendants failed to complete the contracts, failed to properly or completely install home improvement or roofing projects, and performed shoddy workmanship in those parts of the construction that were performed. Defendants accepted deposits on contracts and did so without having the proper registration, permits or licenses to perform the work contracted for.

8. At all times herein, consumers received and relied upon statements and misrepresentations made by Defendant Walker, personally and in writing, who knew or should

have known of the acts, or failure to act, and who allowed, caused or ratified such acts and practiced described above.

PLAINTIFF'S CAUSE OF ACTION

COUNT ONE

FAILURE TO DELIVER

9. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Eight (1-8) of this Complaint.

10. Defendants have committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) and the Ohio Administrative Code 109:4-3-09, by accepting money from consumers for goods and services and failing to make full delivery or a refund.

COUNT TWO

PERFORMING SUBSTANDARD WORK

11. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Eight (1-8) of this Complaint.

12. Defendants have committed unfair and deceptive acts and practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) by performing substandard work and then failing to correct such work. Such acts or practices have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, 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).

COUNT THREE

FAILURE TO GAIN REGISTRATION, PERMITS OR LICENSES

13. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Eight (1-8) of this Complaint.

14. Defendants accepted deposits on contracts and did so without having the proper permits or licenses to perform the work contracted for, and by failing to register as a general contractor in Avon, Ohio in violation of the Ohio Consumer Sales Practices Act R.C. 1345.02(A). 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:

1. **ISSUE** a permanent injunction enjoining Defendants, under these or any other names, their agents, servants, representatives, salesmen, employees, successors and assigns and all persons acting in concert or participate with Defendants, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains;

2. **ISSUE** a declaratory judgment declaring that each act or practice complained of in this Complaint violates the Ohio Consumer Sales Practices Act, and the Substantive Rules contained in the Ohio Administrative Code in the manner set forth in this Complaint;

3. **IMPOSE** upon Defendants civil penalties in the amount of Twenty-Five

Thousand Dollars (\$25,000.00) for each violation of each count pursuant to R.C. 1345.07(D);

4. **ORDER** Defendants to reimburse consumers who have been injured by the acts and practices of which Plaintiff complains;

5. As a means of ensuring compliance with this Court's Order and with the consumer protection laws of Ohio, **ORDER** Defendants, their successors or assigns, under this or any other name, to maintain in their possession and control for a period of five (5) years all business records relating to Defendants' solicitation or effectuation of business in Ohio and to permit the Ohio Attorney General or his representative, upon reasonable twenty-four (24) hour notice, to inspect and/or copy any and all of said records and further **ORDER** that copies of such records be provided at Defendants' expense to the Ohio Attorney General upon request of the Ohio Attorney General or his representatives;

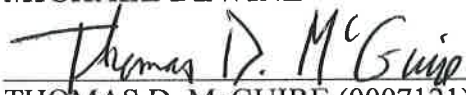
6. **GRANT** Plaintiff his costs in bringing this action;

7. **ORDER** Defendants to pay all court costs.

7. **GRANT** such further relief as justice and equity require.

Respectfully submitted,

**ATTORNEY GENERAL
MICHAEL DEWINE**


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