

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

DANIEL M. HARRIGAN

2013 NOV 14 AM 7:53

STATE OF OHIO, ex rel.
MICHAEL DEWINE
ATTORNEY GENERAL OF OHIO
Consumer Protection Section
615 West Superior Avenue, 11th FL
Cleveland, Ohio 44113-1899

Plaintiff,

-vs-

WAYNE GIVEN D/B/A
BASEMENT WATERPROOFING
SOLUTIONS
3109 Harriet
Silver Lake, Ohio

Defendant.

CASE NO.

JUDGE

COMPLAINT AND
REQUEST FOR
PERMANENT INJUNCTION;
DECLARATORY JUDGMENT;
CIVIL PENALTIES AND
RESTITUTION

SUMMIT COUNTY
CLERK OF COURTS
2013 11 5554
AMY CORRIGALL JONES

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 Defendant Wayne Given, doing business as Basement Waterproofing Solutions (hereinafter "Defendant"), hereinafter described, have occurred in the State of Ohio, County of Summit, and as set forth below, are in violation of R.C. 1345.01 et seq.
3. Defendant is a "supplier," as that term is defined at R.C. 1345.01(C), as Defendant is engaged in the business of effecting "consumer transactions" by offering basement waterproofing

services and repairs for a fee, within the meaning of R.C. 1345.01(A).

4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3).

STATEMENT OF FACTS

5. Defendant Wayne Given, doing business as Basement Waterproofing Solutions, a fictitious name which is not registered with the Ohio Secretary of State, has solicited consumers for basement waterproofing repairs and services in Summit County, Ohio. Defendant Given has personally allowed, directed, ratified or caused the unlawful acts or practices described herein. Defendant Given has accepted payments for basement waterproofing repairs, has failed to provide those ordered services and repairs, and failed to refund consumers' monies.

6. Defendant has unjustifiably delayed repayment of legitimate consumer claims for refunds for numerous months, and has failed to provide consumers with the basement waterproofing repairs and services for which Defendant accepted payment from consumers.

COUNT ONE

FAILURE TO DELIVER

7. Plaintiff incorporates by reference, as if completely rewritten herein; the allegations set forth in Paragraphs One through Six (1-6) of this Complaint.

8. Defendant has committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, R. C. 1345.02 and Ohio Administrative Code 109: 4-3-09, by selling basement waterproofing services to consumers and then failing to deliver the contracted services or to refund the consumers' money within eight weeks.

COUNT TWO

PERFORMING SUBSTANDARD WORK

9 Plaintiff incorporates by reference, as if completely rewritten herein; the allegations set forth in Paragraphs One through Six (1-6) of this Complaint.

10. Defendant has 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. Defendant 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 Defendant Given, under this or any other names, his agents, servants, representatives, salesmen, employees, successors and assigns and all persons acting in concert or participation with Defendant, 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 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 Defendant civil penalties in the amount of Twenty-Five Thousand Dollars (\$25,000.00) for each violation of the Consumer Sales Practices Act pursuant to R.C. 1345.07(D);
4. **ORDER** Defendant to reimburse consumers who have been injured by the acts and practices of which Plaintiff complains;

5. As a means of insuring compliance with this Court's Order and with the consumer protection laws of Ohio, **ORDER** Defendant, his 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 Defendant's 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 Defendant's 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** Defendant to pay all court costs;
8. **GRANT** such further relief as justice and equity require.

Respectfully submitted,

MICHAEL DEWINE
ATTORNEY GENERAL



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