

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO, ex rel.)
MICHAEL DEWINE)
Attorney General of Ohio)
30 East Broad Street, 14th Floor)
Columbus, Ohio 43215)

CASE NO.

JUDGE

PLAINTIFF,

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

v.

MICHAEL EVILSIZER)
4837 Nugent Drive)
Westerville, OH 43086)

and

BUCKEYE EXTERIORS)
c/o Michael Evilsizer)
4837 Nugent Drive)
Westerville, OH 43086)

DEFENDANTS.)

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 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. 1345.07.
2. The actions of Defendants, Michael Evilsizer and Buckeye Exteriors, as described below, have occurred in Franklin County and, as set forth below, are in violation of the Consumer Sales Practices Act, R.C. 1345.01 et seq. and the Substantive Rules, OAC 109:4-3-01 et seq.
3. Defendants, as described below, are “suppliers” as that term is defined in R.C. 1345.01(C), as the Defendants were, at all times relevant herein, engaged in the business of effecting consumer transactions by soliciting and selling home improvement repairs

and services to individuals in several counties throughout Ohio, including Franklin County, for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).

4. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.
5. This Court has venue to hear this case pursuant to Ohio Civ. R. 3 (B)(2) and (3), in that Franklin County is the location in which the Defendants had their principal place of business and where activity was conducted giving rise to these claims.

THE DEFENDANTS

6. Defendant, Michael Evilsizer (hereafter Defendant Evilsizer), is an individual who is last known to have operated his business at 4837 Nugent Drive, Westerville, OH 43086.
7. Defendant Evilsizer registered Defendant Buckeye Exteriors as a domestic limited liability company on November 1, 2010.
8. Defendant Evilsizer directed, supervised, approved, formulated, authorized, ratified, benefited from and/or otherwise participated in the day to day activities of the business entity known as Defendant Buckeye Exteriors.
9. Defendant Evilsizer operated, dominated, controlled, and directed the business activities of Defendant Buckeye Exteriors, causing, personally participating in, and/or ratifying the acts and practices of Defendant Buckeye Exteriors as described in this Complaint.

STATEMENT OF FACTS

10. Defendants, at all times relevant to this action, engaged in the selling of consumer goods or services, specifically home improvement repairs or services.
11. Defendants contracted to provide home improvement repairs or services to consumers in their residential homes.

12. At the time of the transactions, Defendants met at the consumers' homes to provide an estimate for the repairs or services needed in consumers' residential homes.
13. At the time of the transactions, or prior to any work being completed, Defendants failed to provide consumers with a written form which included language explaining the consumers' right to a written estimate.
14. At the time of the transactions, or prior to any work being completed, Defendants failed to provide consumers with a written form that indicated the reasonably anticipated completion date.
15. At the time of the transaction, or prior to any work being completed, Defendants failed to provide consumers with a written itemized list of repairs performed including a list of the parts or materials and a statement of whether they are used, remanufactured, or rebuilt, if not new, and the cost thereof to the consumer, the amount charged for labor, and the identity of individuals performing the repair or service.
16. Defendants accepted down payments from consumers for the purchase of services, and then failed to deliver the services for which the consumers paid.
17. After the Defendants accepted down payments and failed to deliver services, Defendants failed to refund the down payments to consumers.
18. When the Defendants performed work for consumers, the work was performed in an incomplete, shoddy, or unworkmanlike manner.

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

COUNT ONE
FAILURE TO DELIVER VIOLATION

19. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs one through eighteen (1-18) of this Complaint.

20. Defendants committed unfair or deceptive acts and practices in violation of R.C. 1345.02 and Ohio Adm. Code 109:4-3-09(A)(2) by accepting money from consumers for home improvement services and permitting eight weeks to elapse without delivering the contracted services or making a full refund.
21. The acts and practices described in the paragraph above 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.

COUNT TWO
PERFORMING WORK IN A SHODDY OR UNWORKMANLIKE MANNER

22. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs one through eighteen (1-18) of this Complaint.
23. Defendants committed unfair or deceptive acts or practices in violation of R.C. 1345.02(A) by performing home repair or improvement services in an incomplete, shoddy, or unworkmanlike manner.
24. The acts and practices described in the paragraph above 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.

COUNT THREE
REPAIRS AND SERVICES VIOLATIONS

25. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs one through eighteen (1-18) of this Complaint.
26. Defendants committed unfair or deceptive acts or practices in violation of R.C. 1345.02(A) and Ohio Adm. Code 109:4-3-05(A) by failing to provide consumers with a written estimate choice language form at the time of the initial face to face contact or prior to the

commencement of any repair or service, and by failing to provide consumers with a form that indicated the reasonably anticipated completion date.

27. Defendants committed unfair or deceptive acts or practices in violation of R.C. 1345.02(A) and Ohio Adm. Code 109:4-3-05(D) by failing to provide consumers with a written itemized list of repairs performed including a list of parts or materials and a statement of whether they are used, remanufactured, or rebuilt, if not new, and the cost thereof to the consumer, the amount charged for labor, and the identity of the individuals performing the repair or service.
28. The acts and practices described in the paragraphs above 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.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests this Court to:

- A. ISSUE a permanent injunction enjoining Defendants, their agents, servants, representatives, salesmen, employees, successors, or assigns, and all persons acting in concert and participation with them from further violating the Consumer Sales Practices Act, R.C. 1345.01 et seq., and the substantive rules of the Ohio Administrative Code.
- B. ISSUE a declaratory judgment declaring that each act or practice described in Plaintiff's Complaint violates the Consumer Sales Practices Act, as set forth herein.
- C. ASSESS, FINE, AND IMPOSE upon Defendants, a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each appropriate violation described herein, pursuant to R.C. 1345.07(D), for which Defendants shall be jointly and severally liable.

- D. AWARD a monetary judgment against Defendants in an amount sufficient to reimburse all consumers found to have been damaged by the Defendants' unfair and deceptive acts and practices.
- E. ISSUE an Injunction prohibiting Defendants from engaging in business as a supplier in any consumer transaction in the State of Ohio until such time as they have satisfied all monetary obligations ordered by this Court, and any other Court in Ohio in connection with a consumer transaction.
- F. GRANT the Ohio Attorney General his costs in bringing this action.
- G. GRANT such other relief as the Court deems to be just, equitable, and appropriate.
- H. ORDER Defendants to jointly and severally pay all court costs.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General

/s/ Kate E. Christobek
KATE E. CHRISTOBEK (0088746)
Assistant Attorney General
Consumer Protection Section
30 East Broad Street, 14th Floor
Columbus, OH 43215
614-466-3493 (phone)
877-629-2622 (fax)
Kate.Christobek@ohioattorneygeneral.gov

Counsel for Plaintiff