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CLERK OF COURTS
WILLIAMS COUNTY OHIO

IN THE COURT OF COMMON PLEAS OF WILLIAMS COUNTY, OHIO

STATE OF OHIO ex rel.)
Ohio Attorney General Michael DeWine)
30 E. Broad Street, 14th Floor)
Columbus, Ohio 43215)

Plaintiff,)

v.)

Ever Clean, LLC)
520 W. Mulberry Street, Suite 300)
Bryan, Ohio 43506)

and)

Thadius Wind)
1381 Rte. 2)
Rumford, ME 04276-4011)

Defendants.)

CASE NO. *16 CI 000020*

JUDGE *J. T. Stelzer*

**COMPLAINT FOR DECLARATORY
JUDGMENT, INJUNCTIVE RELIEF,
CONSUMER RESTITUTION, AND
CIVIL PENALTY**

JURISDICTION AND VENUE

1. Michael DeWine, Attorney General of Ohio, 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. 1345.07.
2. The actions of Defendants, hereinafter described, have occurred in Williams County, Ohio and, as set forth below, are in violation of the 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. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04.
4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(2) and (3) in that, at all times relevant to this action, Lucas County, Ohio is where Defendants' principal place of business was located and where Defendants conducted some of the transactions complained of herein.

THE DEFENDANTS

5. Defendant Ever Clean, LLC ("Ever Clean") is a limited liability company that is registered with the Ohio Secretary of State under charter number 2209577.
6. Defendant Thadius Wind ("Wind") is a natural person whose last known personal residence is 1381 Rte. 2, Rumford, ME 04276.
7. Defendant Wind is or was the owner and operator of Defendant Ever Clean at all times relevant to this action.
8. Defendants, as described below, are "suppliers" as that term is defined in R.C. 1345.01(C), as Defendants were, at all times relevant herein, engaged in the business of effecting consumer transactions by soliciting and selling home improvement services to individuals in Ohio, including Williams County, for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).
9. Defendants are "sellers" as that term is used in R.C. 1345.21(C) as Defendants, at all relevant times, engaged in personal solicitations of sales at a place other than the sellers' place of business.
10. Defendants engaged in "home solicitations sales" as that term is defined in R.C. 1345.21(A) as Defendants engaged in the solicitation of sales of home improvement services to

consumers at their residences and the buyer's agreement or offer to purchase was made at a place other than the sellers' place of business.

11. Defendant Wind, by virtue of his position as owner and operator of Defendant Ever Clean, alone or in conjunction with others, caused, participated in, controlled, directed, ratified and/or ordered the violations of law alleged in this Complaint.

STATEMENT OF FACTS

12. Defendants have been at all times relevant to this action engaged in the business of selling consumer goods or services, specifically home improvement services, in the State of Ohio, including in Williams County.
13. Defendants performed residential home improvement services for consumers that included gutter and downspout installation.
14. Defendants performed home improvement services for consumers in a shoddy or unworkmanlike manner.
15. Defendants accepted substantial payments from consumers but failed to either begin or complete the work for which they were paid.
16. Defendants accepted substantial payments from consumers but failed to give refunds for incomplete or shoddy work.
17. Defendants presented consumers with contracts for services that contained the following statement: **"You, the buyer, may cancel this Agreement of purchase by mailing a written notice to the seller post-marked not later than the third business day after the date this agreement was/is signed.** It is agreed that if the owner cancels this contract AFTER THREE (3) DAYS from the date of acceptance and before the commencement of work, the owner agrees to pay the Contractor 33% of the contract price." (Exhibit A)

18. Some consumers tried to cancel their contracts but did not receive refunds. Additionally, some consumers cancelled their contracts without making payment and later received letters from collection companies for the entire amounts in the contracts.

PLAINTIFF'S CAUSES OF ACTION

COUNT I
FAILURE TO DELIVER GOODS AND/OR SERVICES
OR ISSUE REFUNDS

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 or practices in violation of the CSPA, R.C. 1345.02(A) and O.A.C. 109:4-3-09 by accepting money from consumers for home improvement services and materials and permitting eight weeks to elapse without delivering the promised goods or services or issuing a full refund.

COUNT II
SHODDY OR UNWORKMANLIKE SERVICES

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

22. Defendants committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) by performing home improvement services in an incomplete, shoddy, or unworkmanlike manner, and failing to correct the work.

23. Such acts or practices 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).

COUNT III
VIOLATIONS OF THE HSSA

24. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through eighteen (1-18) of this Complaint.
25. Defendants committed deceptive acts or practices in violation of the HSSA, R.C. 1345.22, by restricting a consumer's right to cancel by limiting it to mail only.
26. Such acts and practices have been previously determined by Ohio courts to violate the CSPA. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT IV
VIOLATIONS OF THE HSSA

27. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through eighteen (1-18) of this Complaint.
28. Defendants committed deceptive acts or practices in violation of the HSSA, R.C. 1345.23(B), by failing to give consumers a proper notice of cancellation, by charging a cancellation fee during a consumer's three-day cancellation period, and by failing to give full refunds to consumers after cancellation.
29. Such acts and practices have been previously determined by Ohio courts to violate the CSPA. 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 prays that this Court:

1. ISSUE a declaratory judgment declaring that each act or practice complained of herein violates the CSPA and the HSSA in the manner set forth in the Complaint.

2. ISSUE a permanent injunction enjoining Defendants, their agents, servants, representatives, salespeople, employees, independent contractors, successors, or assigns, and all persons acting in concert or participating with them, directly or indirectly, from further violating the CSPA, R.C. 1345.01 et seq., its Substantive Rules, and the HSSA, R.C. 1345.21 et seq.
3. GRANT 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.
4. ASSESS, FINE, and IMPOSE upon the Defendants a civil penalty in the amount of Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein pursuant to R.C. 1345.07(D).
5. GRANT the Ohio Attorney General his costs in bringing this action.
6. ORDER Defendants to pay all court costs.
7. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General of Ohio



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