

**STATE OF OHIO
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION SECTION**

STATE OF OHIO)	
)	
IN THE MATTER OF:)	Docket #: 436908
Scott Loewenstine, individually and)	
d/b/a Air Duct Doctor,)	
The Duct Doctor, Ltd.,)	
The Duct Guys LLC,)	
Buckeye Mold Removal, LLC,)	
Columbus Dryer Vent Cleaning, LLC,)	
Total Carpet Cleaning Solutions, and)	
Total Cleaning Solutions)	

ASSURANCE OF VOLUNTARY COMPLIANCE

This Assurance of Voluntary Compliance (“Assurance”) is entered into this 18th day of May, 2012 by and between Scott Loewenstine, individually, and doing business as Air Duct Doctor, The Duct Doctor, The Duct Guys LLC, Buckeye Mold Removal, Columbus Dryer Vent, Total Carpet Cleaning and Michael DeWine, Attorney General of the State of Ohio (“Attorney General”). For the purposes of this Assurance, “Loewenstine” shall mean Scott Loewenstine, individually, and Scott Loewenstine doing business as Air Duct Doctor, The Duct Doctor, The Duct Guys LLC, Buckeye Mold Removal, Columbus Dryer Vent, Total Carpet Cleaning Solutions, Total Cleaning Solutions, or any other name, his officers, principals, directors, partners, agents, servants, representatives, salespersons, employees, successors or assigns and all persons acting in concert or participation with him, directly or indirectly, through any corporate device, partnership, association or affiliation.

WHEREAS, the Attorney General, having reasonable cause to believe that Loewenstine may have engaged in acts and practices which violate Chapter 1345 of the Ohio Revised Code, specifically the Consumer Sales Practices Act, the Exclusions and Limitations in Advertisements

Rule, the Bait Advertising Rule, The “Free” Rule, the Repairs and Services Rule, the Failure to Deliver Rule, and the Substantiation of Claims in Advertising Rule, has conducted an investigation of Loewenstine pursuant to the authority granted to him by R.C. 1345.06; and

WHEREAS, the Attorney General may, pursuant to R.C. 1345.06(F), enter into and accept an Assurance of Voluntary Compliance; and

WHEREAS, this Assurance of Voluntary Compliance is an assurance in writing by Loewenstine of his intent to conduct his business in a manner designed to comply with the provisions of the Consumer Sales Practices Act and its Substantive Rules, R.C. 1345.01 et seq. (“CSPA”); and

WHEREAS, Loewenstine expressly denies any violation of any federal, state, or local law, and;

WHEREAS, Loewenstine, desiring to comply with all aspects of the CSPA, hereby voluntarily enters into this Assurance with the Attorney General.

NOW THEREFORE, in consideration of the mutual promises and conditions set forth herein, the parties hereto **AGREE** as follows:

- (1) The “Effective Date” shall mean the date that is indicated on the first page of this Assurance.
- (2) By accepting this written Assurance, the Attorney General agrees to terminate the current investigation by his Consumer Protection Section of Loewenstine’s business practices and actions occurring on or before the Effective Date of this Assurance.
- (3) By giving this written Assurance, Loewenstine agrees to comply with all the terms of this Assurance and to conduct his business in compliance with all applicable Ohio laws, including without limitation, the CSPA and its substantive rules.

BACKGROUND AND STATEMENT OF FACTS

- (4) Loewenstine is a natural person residing at 1605 Perris Court, New Albany, OH 43054.
- (5) Loewenstine is the owner and principle representative of The Duct Guys LLC, Columbus Dryer Vent, and Total Carpet Cleaning, all located at 3324 Morse Rd Suite G, Columbus, Ohio 43231-9216.
- (6) Loewenstine has operated his businesses under various names, as listed on page one above.
- (7) Loewenstine presently operates the business Total Cleaning Solutions.
- (8) Loewenstine's businesses The Duct Doctor, Ltd., Buckeye Mold Removal, LLC, The Duct Guys, LLC, and Columbus Dryer Vent Cleaning, LLC are currently incorporated in the State of Ohio and registered with the Ohio Secretary of State.
- (9) Loewenstine's fictitious business names Air Duct Doctor and Total Carpet Cleaning Solutions have never been registered with the Ohio Secretary of State.
- (10) Loewenstine is a supplier as that term is defined in R.C. 1345.01(C) as Loewenstine is, or at all times relevant herein was, engaged in the business of effecting or soliciting consumer transactions for purposes that are primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).
- (11) At all times relevant to this investigation, Loewenstine has offered cleaning services for home HVAC systems, including air ducts, vents, and furnaces, and also mold removal

services in the home, dryer vent cleaning services, and carpet cleaning services in the State of Ohio, including in the Greater Columbus, Ohio area.

- (12) Loewenstine predominantly advertised these services using Val-Pak advertisements mailed to consumers via US Mail, and via Groupon and other online deals, and via websites including www.carpetcleaningservicecolumbusohio.com/
- (13) Loewenstine's Val Pak advertisement offered a "\$16.95 Whole House Special" cleaning of "Unlimited Vents" in the home. The advertisement also offered a "Free Mold Test."
- (14) These advertisements did not state that Loewenstine required that the free mold test be performed, and that if mold was found, Loewenstine would require the consumer to pay to eliminate the mold before the "whole house special" air duct cleaning could begin.
- (15) Loewenstine made an offer in printed advertising that did not state material conditions in a clear and conspicuous manner.
- (16) Loewenstine used statements and made representations in an advertisement that would create in the mind of a reasonable consumer a false impression as to the price, when, upon subsequent disclosure, the consumer may be induced to purchase goods or services other than those offered.
- (17) Loewenstine continuously advertised the "free mold test" on each of his consecutive monthly Val-Pak advertisements.
- (18) Loewenstine used continuous or repeated "free" offers, which ultimately made such offers illusory and deceptive.

- (19) When Loewenstine entered homes of consumers who had responded to his Val-Pak advertisements, he told consumers that he first needed to perform the free mold test to ensure that it was safe to clean the vents.
- (20) At times Loewenstine refused to complete the whole house air duct cleaning without first conducting the mold test, citing his concerns for his and his staff's safety.
- (21) The "free mold test" of the air ducts found mold in almost all of the homes where the test was performed.
- (22) After the "free mold test" of the air ducts found mold, Loewenstine told consumers that he would not be able to clean the air ducts until the mold was removed.
- (23) Loewenstine charged consumers anywhere from \$200 to over \$1000 for the removal of mold from their HVAC systems.
- (24) Loewenstine did not have a set price for any of the services offered, and the prices he charged varied between consumers.
- (25) Loewenstine's advertised offer to sell the "\$16.95 Whole House Special" duct cleaning was not a bona fide effort to sell those services, but actually an effort to sell his mold removal services at a price Loewenstine set once he was in the consumer's home.
- (26) Loewenstine made an offer of the sale of duct cleaning services but later discouraged the sale of the offered services by refusing to provide the original offered service unless an additional service is also purchased.
- (27) At times, Loewenstine did not provide consumers, at the time of the initial face-to-face contact and prior to the commencement of any repair or service, with a written form that

indicated the date, the identity of the company, the consumer's name and telephone number, the reasonably anticipated duration date and an estimate of the cost of the repair or service.

- (28) Even though at times Loewenstine refused to complete the whole house air duct cleaning without first conducting the mold test, citing his concerns for his and his staff's safety relating to cleaning ducts when there might be the presence of mold, later in his business operations when he no longer offered the free mold test, Loewenstine began cleaning consumers' HVAC systems immediately and did not express concerns about the possibility of the presence of dangerous mold.
- (29) Loewenstine made specific claims to some consumers about the mold in their HVAC systems even though his mold testing equipment was not able to determine such specific information about the mold.
- (30) After completing his services, Loewenstine did not provide consumers with an itemized receipt of the services he performed and the charges for each of those services.
- (31) After the mold removal was completed, Loewenstine told some consumers he would come back to the consumers' homes in a few weeks to complete the duct cleaning, but he failed to return to their homes to complete the inexpensively advertised whole house vent cleaning.
- (32) Loewenstine made material misrepresentations to consumers as to how necessary it was to remove the mold in their ducts before he could clean them properly.

- (33) Loewenstine made misrepresentations to some consumers, including pregnant women, about the serious health problems that could be caused if they did not pay him to remove the mold from their air duct systems.
- (34) Loewenstine represented that his mold removal service was necessary to fix a dangerous condition, and that the consumer's continued use of it could be harmful, when such was not the fact.
- (35) Loewenstine knowingly made misleading statements of opinion on which consumers were likely to rely to their detriment.

COMPLIANCE PROVISIONS

- (36) Loewenstine shall not engage in acts and practices that violate CSPA, including the Exclusions and Limitations in Advertisements Rule, the Bait Advertising Rule, The Use of the Word "Free" Rule, the Repairs and Services Rule, the Failure to Deliver Rule, and the Substantiation of Claims in Advertising Rule.
- (37) Loewenstine shall refrain from engaging in misrepresentation of the types and features of the services and amenities Loewenstine offers the consumer, in violation of the CSPA, R.C. 1345.02(A) and R.C. 1345.02(B)(9).
- (38) Loewenstine shall refrain from committing unfair or deceptive business practices in violation of the CSPA R.C. 1345.02(A).
- (39) Loewenstine shall refrain from committing unconscionable practices in connection with a consumer transaction in violation of the CSPA, R.C. 1345.03(A).

- (40) Loewenstine shall refrain from committing unfair or deceptive business practices in violation of the CSPA, R.C. 1345.02(A), by failing to register all fictitious business names with the Ohio Secretary of State.
- (41) Loewenstine shall refrain from making any offer in written or printed advertising or promotional literature without stating clearly and conspicuously in close proximity to the words stating the offer any material exclusions, reservations, limitations, modifications or conditions, in violation of the Exclusions and Limitations in Advertisements Rule, O.A.C. 109:4-3-02(A).
- (42) Loewenstine shall refrain from offering the sale of any goods or services when such offer is not a bona fide effort to sell such goods or services, in violation of the Bait Advertising Rule, O.A.C. 109:4-3-03(B).
- (43) Loewenstine shall refrain from using the word “free” in a consumer transaction unless all the terms, conditions and obligations are set forth clearly and conspicuously, in compliance with the Free Rule, O.A.C. 109:4-3-04 including, but not limited to, using the word “Free” in a way that it does not become an illusory and deceptive continuous free offer.
- (44) Loewenstine shall refrain from violating the Repairs and Services rule, specifically failing to provide consumers with a detailed form at the initial face to face contact; charging for any repair or service which has not been authorized; representing that repairs have been made or services have been performed when such is not the fact; materially understating or misstating the estimated cost of the repairs or service; failing to provide the consumer a written list of repairs performed or services rendered; representing that his services were necessary to fix a dangerous condition or and that a consumer’s

continued use of it could be harmful, when such was not the fact; and failing to provide the consumer with a copy of the document at the time of the signing or initialing of the document, in violation with O.A.C. 109:4-3-05(A)(1) and (D)(6), (9), (10), (11), (12), (15).

- (45) Loewenstine shall refrain from making any representation, claims, or assertions of fact which would cause a reasonable consumer to believe such statements are true, unless Loewenstine possesses or possess or relies upon a reasonable basis in fact such as factual, objective, quantifiable, clinical, or scientific data or other competent and reliable evidence which substantiates such representations, claims, or assertions of fact, in compliance with the Substantiation of Claims in Advertising Rule, O.A.C. 109:4-3-10.
- (46) Loewenstine shall refrain from knowingly taking advantage of the inability of a consumer to protect the consumer's interests because of the consumer's physical or mental infirmities, in violation of R.C. 1345.03(B)(1).
- (47) Loewenstine shall refrain from knowingly making misleading statements of opinion on which consumers are likely to rely to their detriment, in violation of R.C. 1345.03(B)(6).
- (48) Prior to providing services to consumers, Loewenstine shall provide them with a written itemized estimate.

GENERAL PROVISIONS

- (49) Loewenstine understands and agrees that this Assurance applies to any related owners, principals, officers, directors, agents, servants, representatives, salespersons, employees, instructors, independent contractors, successors and assigns.
- (50) This Assurance shall be governed by the laws of the State of Ohio.

- (51) This Assurance is entered into by the Attorney General and Loewenstine of their own free and voluntary act, and with full knowledge and understanding of the nature of the proceedings and the obligations and duties imposed by this Assurance.
- (52) This Assurance does not constitute an approval by the Attorney General of any of Loewenstine's business practices, and Loewenstine shall not represent directly or indirectly, or in any way whatsoever, that the Attorney General has sanctioned, condoned or approved any part or aspect of his business practices.
- (53) This Assurance sets forth the entire agreement between the Attorney General and Loewenstine and supersedes all prior agreements or understandings, whether written or oral, between the parties and/or their respective counsel with respect to the subject matter hereof. This Assurance may be amended by written agreement between the Parties, subject to any further requirements under state law.
- (54) The Parties acknowledge that no other promises, representations or agreements of any nature have been made or entered into by the Parties. The Parties further acknowledge that this Assurance constitutes a single and entire agreement that is not severable or divisible, except that if any provision herein is found to be legally insufficient or unenforceable, the remaining provisions shall continue in full force and effect.
- (55) Loewenstine shall negotiate in good faith, through the Office of the Attorney General, any consumer complaints filed with this Office concerning Loewenstine's conduct occurring prior to or after the Effective Date of this Assurance, which are brought by consumers that are discovered after entering into this Assurance.
- (56) This Assurance is a public record and shall be maintained in the Public Inspection File.

(57) As part of the consideration for the termination of the Attorney General's investigation of the Respondents under the Consumer Sales Practices Act, R.C. 1345.01 et seq., the Parties hereby acknowledge that Loewenstine has previously made restitution to the consumers identified in **ADDENDUM A**, attached, in the aggregate total of Nine Thousand Sixty-Five Dollars and Forty-nine Cents (\$9,065.49), by paying this amount to the Attorney General, which was distributed to the consumers identified on **ADDENDUM A**.

PAYMENT TO THE STATE AND RESTITUTION

(58) Furthermore, as part of the consideration for the termination of the Attorney General's investigation of Loewenstine under the CSPA, R.C. 1345.01 et seq., Loewenstine shall make a payment to the State of Ohio in the amount of Ten Thousand Dollars (\$10,000.00), to be placed in the Ohio Attorney General's Consumer Protection Enforcement Fund, to be used by the Attorney General as provided by R.C. 1345.51. Payment of Five Thousand Dollars (\$5,000.00) of said amount is suspended upon full compliance with all provisions of this Assurance. Payment of the Five Thousand Dollars (\$5,000.00) that is not suspended shall be due upon the execution of this Assurance and shall be submitted to the Attorney General's Office in the form of a certified check, made payable to "The Ohio Attorney General."

(59) As part of the consideration for the termination of the Attorney General's investigation of the Respondents under the CSPA the Parties hereby acknowledge that Loewenstine shall provide full restitution to the consumer identified in **ADDENDUM B**, attached, in the amount of Six Thousand Dollars (\$6000.00), to be distributed to the consumer by the

Attorney General. Total payment of this restitution amount shall be due upon the execution of this Assurance and shall be submitted to the Attorney General's Office in the form of a certified check, made payable to "The Ohio Attorney General."

PENALTIES FOR FAILURE TO COMPLY

- (60) The Attorney General may assert any claim that Loewenstine has violated this Assurance in a separate civil action to enforce this Assurance against Loewenstine and the court shall apply applicable standards of law to determine damages per any subsequent violations, which may include any and all remedies available to the Attorney General pursuant to R.C. 1345.07. In any such action or proceeding, relevant evidence of conduct that occurred before the Effective Date shall be admissible on any material issue, including alleged willfulness, intent, knowledge, contempt or breach, to the extent permitted by law. By this paragraph, Loewenstine does not waive any evidentiary objection or any other objection he may have as permitted by law to the admissibility of any such evidence, including, but not limited to, showing evidence that Loewenstine has fully and promptly cooperated in good faith with this investigation.
- (61) Pursuant to R.C. 1345.06(F), this Assurance, including any and all provisions thereof set forth above, is not, and shall not be construed as, evidence of any violation of the CSPA by Loewenstine. Evidence of a violation of an Assurance of Voluntary Compliance, though, is prima-facie evidence of an act or practice in violation of the CSPA, R.C. 1345.01 et seq., if presented after the violation in an action brought under the CSPA, R.C. 1345.01 et seq.

(62) This Assurance shall in no way exempt Loewenstine from any other obligations imposed by law, and nothing contained herein shall relieve Loewenstine of any legal responsibility for any acts or practices engaged in by Loewenstine other than those acts specifically resolved by this Assurance.

(63) Nothing in this Assurance shall in any way preclude any investigative or enforcement action against Loewenstine under any legal authority granted to the Attorney General:

(a) With respect to the transactions or occurrences which are the subject of this enforcement action, if the terms of this Assurance are not fully obeyed; or

(b) With respect to transactions or occurrences which are not the subject of this action.

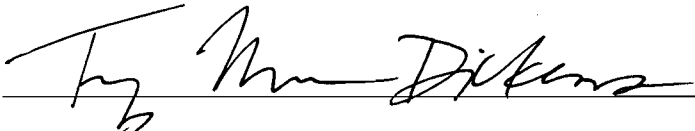
WHEREFORE, the parties hereto affix their signatures in recognition and acceptance of the terms contained herein on this 18th day of May, 2012.

SIGNATURES

Accepted:

MICHAEL DEWINE
ATTORNEY GENERAL

BY:



Date:

5/18/12

Tracy Morrison Dickens
Assistant Attorney General
Consumer Protection Section
30 E. Broad Street, 14th Floor
Columbus, Ohio 43215
(614) 644-9618



Date:


5/18/12

Kate Christobek
Assistant Attorney General
Consumer Protection Section
30 E. Broad Street, 14th Floor
Columbus, Ohio 43215
(614) 644-9618

Counsel for the Ohio Attorney General

Accepted:

**Scott Loewenstine, Individually, d/b/a Air Duct Doctor, The Duct Doctor, The Duct
Guys LLC, Buckeye Mold Removal, LLC, Columbus Dryer Vent Cleaning, Total
Carpet Cleaning Solutions, and Total Cleaning Solutions**

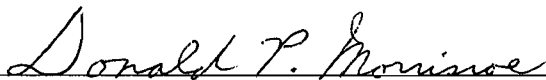
BY:  Date: 5/14/2012

Scott Loewenstine
1605 ~~Parris~~ Court
New Albany, Ohio 43054

L PERRIS CT + SC

Accepted:

Donald P. Morrisroe, Goodman & Goodman

BY:  Date: 5/16/12

Donald Morrisroe
123 East Fourth Street
Cincinnati, Ohio 45202-4000

Counsel for Scott Loewenstine

ADDENDUM A

	LAST	FIRST	AMOUNT
1	Bailey	Brian	\$1,130.18
2	Burger	Hogan	\$350.00
3	Cormanick	Donald	\$800.00
4	Gore	Angela	\$225.00
5	Hileman	Richard	\$600.00
6	Metcalf	Geraldine	\$1,000.00
7	Pearson-Jones	Barbara	\$200.00
8	Reich	Paula	\$980.00
9	Rogers	Trido	\$986.85
10	Torr	Geraldine	\$899.00
11	Wang	Wanjun	\$475.20
12	White	Mary Ann	\$619.26
13	Williams	Carolyn	\$800.00
		<u>TOTAL</u>	\$9,065.49

ADDENDUM B

	LAST	FIRST	AMOUNT
1	North	Alberta	\$6,000.00
		TOTAL	\$6,000.00