

**IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO**

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| STATE OF OHIO ex rel. |) | |
| ATTORNEY GENERAL |) | |
| DAVE YOST |) | Case No: |
| 30 E. Broad St., 14 th Floor |) | |
| Columbus, Ohio 43215 |) | |
| |) | Judge: |
| Plaintiff, |) | |
| v. |) | |
| |) | |
| Robert Tracy Green |) | |
| 5040 Delisle Fourman Rd. |) | |
| Greenville, OH 45331 |) | |
| |) | |
| and |) | |
| |) | COMPLAINT AND REQUEST |
| TK Home Improvement, LLC |) | FOR DECLARATORY JUDGMENT, |
| 336 Rockhill Ave. |) | INJUNCTIVE RELIEF, CONSUMER |
| Dayton, OH 45429 |) | RESTITUTION, CIVIL PENALTIES, AND |
| |) | OTHER APPROPRIATE RELIEF |
| Defendants. |) | |

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through its counsel, the Attorney General of Ohio, Dave Yost, 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.*

2. Defendant Robert Tracy Green and Defendant TK Home Improvement LLC (“Defendants”) had a principal place of business at 336 Rockhill Ave. Dayton, OH 45429.

3. The actions of Defendants, hereinafter described, have occurred in Montgomery and other counties in the State of Ohio and, as set forth below, are in violation of the Consumer Sales Practices Act (“CSPA”), R.C. 1345.01 *et seq.*, and the Home Solicitation Sales Act (“HSSA”), R.C. 1345.21.
4. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
5. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(1) and (3), in that Defendant Robert Tracy Green (“Green) resides in Montgomery County and Montgomery County is one of the counties in which Defendants conducted activity that gave rise to the claims for relief.

DEFENDANTS

6. Defendant TK Home Improvement, LLC (“TK Home Improvement”) is a limited liability company registered in Ohio with a principal place of business in Montgomery County.
7. Defendant Green is an individual residing at 5040 Delisle Fourman Rd. Dayton, OH 45429 who was and is an owner and an officer, employee or director of TK Home Improvement. Upon information and belief, at all times material to this Complaint, acting alone or in concert with others, Green has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.
8. Defendants are “suppliers,” as that term is defined in R.C. 1345.01(C), as they engaged in the business of effecting “consumer transactions” by soliciting consumers either directly or indirectly for home remodeling and repair goods and services for a fee, within the meaning of R.C. 1345.01(A).

9. Defendants engaged in “home solicitation sales” as “sellers” as that term is defined in R.C. 1345.21, as they made personal solicitations of their sales at the residences of buyers, within the meaning of R.C. 1345.21(A).

STATEMENT OF FACTS

10. Defendants solicited and sold home improvement goods and services at the residences of buyers.

11. Defendants do not have a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis.

12. Defendants engaged in the business of providing goods and services to consumers, including home repair, remodeling, and installation services, and failed to deliver some of those goods and services within eight weeks.

13. Defendants accepted monetary deposits from consumers for the purchase of home improvement goods and services and failed to deliver those goods and services and have refused to refund consumers’ deposits or payments.

14. Defendants represented to consumers that they would provide the ordered goods and services within an estimated time and then failed to provide such goods and services in the time promised.

15. After receiving payment, Defendants would sometimes begin to provide contracted services, and then fail to complete the work.

16. When Defendants did provide home improvement services, they performed substandard, shoddy, and incomplete work.

17. Defendants' performance of contracted services in a substandard, shoddy, or incomplete manner has resulted in harm to consumers and required the consumers to pay additional money to have the Defendants' work corrected and/or to complete the work Defendants were supposed to do.
18. Defendants did not notify consumers of their cancellation rights nor did they provide consumers with a notice of cancellation form.

PLAINTIFF'S FIRST CAUSE OF ACTION:

VIOLATIONS OF THE CSPA

COUNT I- FAILURE TO DELIVER

19. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-18 of this Complaint.
20. Defendants committed unfair or deceptive acts or practices in violation of the Failure to Deliver Rule, O.A.C. 109:4-3-09(A), and the CSPA, R.C. 1345.02(A), by accepting money from consumers for goods and services and then permitting eight weeks to elapse without making shipment or delivery of the goods and services ordered, making a full refund, advising the consumers of the duration of an extended delay and offering to send a refund within two weeks if so requested, or furnishing similar goods or services of equal or greater value as a good faith substitute.

COUNT II – UNFAIR AND DECEPTIVE ACTS AND PRACTICES

21. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through 1-20 of this Complaint.

22. Defendants committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by performing substandard work and then failing to correct such work.
23. The acts and practices described above 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(B)(2).

PLAINTIFF'S SECOND CAUSE OF ACTION:

VIOLATION OF THE HSSA

FAILURE TO PROVIDE PROPER NOTICE OF THREE-DAY RIGHT OF RESCISSION

24. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-23 of this Complaint.
25. Defendants violated the HSSA, R.C. 1345.23, and R.C. 1345.02(A), by failing to give proper notices to consumers of their right to cancel their transactions by a specific date.
26. The acts or practices described above 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).

PRAYER FOR RELIEF

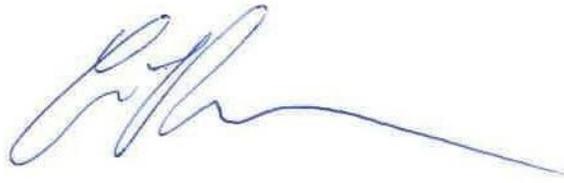
WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

- A. **ISSUE A DECLARATORY JUDGMENT** that each act or practice complained of herein violates the CSPA, its Substantive Rules, and the HSSA, in the manner set forth in the Complaint.

- B. **ISSUE A PERMANENT INJUNCTION** enjoining Defendants, their agents, employees, successors or assigns, and all persons acting in concert and participation with them, directly or indirectly, through any corporate device, partnership, or other association, under these or any other names, from engaging in the acts and practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 *et seq.*, its Substantive Rules, and the HSSA, R.C. 1345.21 *et seq.*
- C. **ORDER** Defendants, pursuant to R.C. 1345.07(B), jointly and severally liable to pay consumer restitution to all consumers injured by the conduct of Defendants.
- D. **ASSESS, FINE and IMPOSE** upon Defendants, jointly and severally, a civil penalty of up to \$25,000 for each separate and appropriate violation of the CSPA described herein pursuant to R.C. 1345.07(D).
- E. **ISSUE AN INJUNCTION** prohibiting Defendants from engaging in business as a Supplier in any consumer transactions in this state until such time as Defendants have satisfied all monetary obligations ordered pursuant to this litigation.
- F. **GRANT** the Ohio Attorney General its costs incurred in bringing this action, including, but not limited to, the costs of collecting on any judgment awarded.
- G. **ORDER** Defendants to pay all court costs.
- H. **GRANT** such other relief as the court deems to be just, equitable, and appropriate.

Respectfully submitted,

DAVE YOST
Attorney General



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