IN THE COURT OF COMMON PLEAS CUYAHOGA COUNTY, OHIO

MICHAEL DEVINE	1 A 9.59) UERST CASE NO. E. DURTS JE GOURTS JUDGE
ATTORNEY GENERAL 615 W. SUPERIOR, 11TH FI. CLERK College Cuyand	Judge: DICK AMBROSE
Plaintiff,) CV 12 775325
v. MURPHY & SON, INC. P.O. Box 529 Wickliffe, Ohio 44092	COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF DECLARATORY JUDGMENT, CONSUMER RESTITUTION AND CIVIL PENALTIES
Defendant.	,

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 Murphy & Son, Inc., hereinafter described, have occurred in the State of Ohio, County of Cuyahoga, and as set forth below, are in violation of R.C. 1345.01 et seq.
 - 3. Defendant is incorporated, and is located in Cuyahoga County.
- 4. Defendant is a "supplier", as that term in defined in R.C. 1345.01(C), as Defendant is engaged in the business of effecting "consumer transactions" by offering home improvement goods and services for a fee, within the meaning of R.C. 1345.01(A).

- 5. Defendant has solicited and performed shoddy work in the construction of major home improvement services contracted with consumers. Defendant failed to complete the contracts, failed to properly or completely install home improvement or roofing projects, and performed shoddy workmanship in those parts of the construction that were performed. Defendant has accepted deposits on contracts and did so without having the proper permits or licenses to perform the work contracted for.
- 6. Jurisdiction over the subject matter of this action lies with this Court pursuant to the Ohio Consumer Sales Practices Act, R.C. 1345.04.
- 7. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3), in that many of the transactions complained of herein, occurred in Cuyahoga County, Ohio.

PLAINTIFF'S CAUSE OF ACTION

COUNT ONE

PERFORMING SUBSTANDARD WORK

- 8. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Seven (1-7) of this Complaint.
- 9. 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).

COUNT TWO

FAILURE TO GAIN PERMITS OR LICENSES

- 10. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Seven (1-7) of this Complaint.
- Defendant accepted deposits on contracts and did so without having the proper permits or licenses to perform the work contracted for, in violation of the Ohio Consumer Sales Practices Act R.C. 1345.02(A). Defendant's violations of law in this regard occurred after State ex rel. Brown v. Martz, Tri-County Landscaping was placed in the Attorney General's Consumer Protection Public Inspection File, pursuant to R.C. 1345.07(D).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- 1. **ISSUE** a permanent injunction enjoining Defendant, under this or any other names, its agents, servants, representatives, salesmen, employees, successors and assigns and all persons acting in concert or participate 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 Ohio 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 each count 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 ensuring compliance with this Court's Order and with the consumer protection laws of Ohio, **ORDER** Defendant, its 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. **GRANT** such further relief as justice and equity require.

Respectfully submitted, ATTORNEY GENERAL

MICHAEL DEWINE

THOMAS D. McGUIRE (0007121)

Senior Assistant Attorney General

Consumer Protection Section

State Office Bldg., 11th Fl.

615 W. Superior Ave.

Cleveland, OH 44113-1899

(216) 787-3030

Thomas.mcguire@ohioattorneygeneral.gov