

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO, ex rel.)	
MICHAEL DEWINE)	CASE NO.
Attorney General of Ohio)	
30 East Broad Street)	
14 th Floor)	JUDGE
Columbus, Ohio 43215)	
)	
Plaintiff,)	<u>COMPLAINT AND</u>
)	<u>REQUEST FOR INJUNCTIVE AND</u>
V.)	<u>DECLARATORY RELIEF,</u>
)	<u>CONSUMER RESTITUTION, AND</u>
RESTORE IT USA, LLC)	<u>CIVIL PENALTIES</u>
1323 Brice Road)	
Reynoldsburg, Ohio 43068)	
)	
and)	
)	
JAMES TWADDLE, Individually)	
6179 Sugar Maple Court)	
Westerville, Ohio 43082)	
)	
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 Restore It USA, LLC and James Twaddle, 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 its Substantive Rules, Ohio Adm. Code, 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 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. Defendants, as described below, engaged in “home solicitation sales” as that term is defined in R.C. 1345.21(A), as Defendants were, at all times relevant herein, engaged in personal solicitations at the residence of the buyer, including solicitations in response to or following an invitation by the buyer.
5. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.
6. This Court has venue to hear this case pursuant to Ohio Civ. R. 3 (B)(2) in that Franklin County is the location in which the Defendant Restore It USA, LLC had its principal place of business and Ohio Civ. R 3 (B)(3) in that Franklin County is the location where the Defendants conducted activity that gave rise to the claim for relief.

THE DEFENDANTS

7. Defendant Restore It USA, LLC is a domestic limited liability company registered with the Ohio Secretary of State and has its principal place of business located at 1323 Brice Road, Reynoldsburg, Ohio 43068
8. Defendant, James Twaddle, is a natural person who resides at 6179 Sugar Maple Court, Westerville, Ohio 43082.

9. Defendant Twaddle directed, supervised, approved, formulated, authorized, ratified, benefited from and/or otherwise participated in the day to day activities of the business entity known as Restore It USA, LLC.
10. Defendant Twaddle operated, dominated, controlled, and directed the business activities of Defendant Restore It USA, LLC, causing, personally participating in, and/or ratifying the acts and practices of Defendant Restore It USA, LLC, as described in this Complaint.

STATEMENT OF FACTS

11. Defendants have been at all times relevant to this action, engaged in the selling of consumer goods or services, specifically home improvement services.
12. Defendants used a website called HailWatch to locate storm ravaged counties.
13. Defendant Restore It USA solicited consumers at consumers' homes and encouraged the consumers to request money from their insurance companies for new roofs.
14. At the time of the transactions, Defendants failed to provide consumers with a notice of cancellation form describing the consumers' rights to cancel the transactions.
15. At the time of the transactions, Defendants accepted substantial down payments from the consumers or directly from the consumers' insurance companies.
16. At the time of the transactions, Defendants failed to provide consumers with written notice notifying the consumers whether the deposits were refundable or under what conditions.
17. In many instances, Defendants failed to complete the work or provide a refund within eight weeks.
18. Consumers tried to contact the Defendants to complete the work and/or to obtain a refund, but the Defendants routinely failed to return the consumers' phone calls.

19. Defendants continued entering into transactions with consumers and accepting substantial down payments knowing that they did not have the funds to complete the jobs they had already contracted for.
20. On November 23, 2012, Defendant Twaddle entered into a purchase agreement in which he transferred his ownership rights of Defendant Restore It USA to Jennifer Collmar.
21. Defendant Twaddle failed to complete the work or provide refunds to the consumers that paid substantial down payments prior to November 23, 2012.
22. All facts alleged above have routinely occurred in the two years prior to this lawsuit.

PLAINTIFF'S FIRST CAUSE OF ACTION:

VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT

COUNT I

FAILURE TO DELIVER VIOLATION

23. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs one through twenty-two (1-22) of this Complaint.
24. Defendants committed unfair and 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.

COUNT II

PRECARIOUS FINANCIAL SITUATION

25. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs one through twenty-two (1-22) of this Complaint.

26. Defendants committed unfair, deceptive or unconscionable acts or practices in violation of the CSPA, R.C. 1345.02(A) and R.C. 1345.03(A) by accepting money from consumers when Defendants knew or should have known that, due to the precarious financial situation, consumers would not receive the goods or services for which they paid.
27. Such acts and practices 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 pursuant to R.C. 1345.05(A)(3).

COUNT III

DEPOSITS

28. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs one through twenty-two (1-22) of this Complaint.
29. Defendants committed unfair and deceptive acts and practices in violation of R.C. 1345.02 and Ohio Adm. Code 109:4-3-07(B)(5) by accepting deposits from consumers and failing to provide a dated written receipt stating clearly and conspicuously whether the deposit is refundable and under what conditions.

SECOND CAUSE OF ACTION

VIOLATIONS OF THE HOME SOLICITATION SALES ACT

COUNT I

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

30. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through twenty-two (1-22) of this Complaint.

31. Defendants violated the Home Solicitation Sales Act, R.C. 1345.23 and R.C. 1345.02(A), by failing to give proper notice to consumers of their right to cancel their contract by a specific date.
32. The act or practice described above has 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:

1. 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., the substantive rules of the Ohio Administrative Code, and the Home Solicitation Sales Act.
2. ISSUE a declaratory judgment declaring that each act or practice described in Plaintiff's Complaint violates the Consumer Sales Practices Act and the Home Solicitations Sales Act, as set forth herein.
3. 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.
4. 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.

5. 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.
6. GRANT the Ohio Attorney General his costs in bringing this action
7. GRANT such other relief as the Court deems to be just, equitable, and appropriate.
8. ORDER Defendants to jointly and severally pay all court costs.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General

/s/ Brittany M. Steele
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