

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

STATE OF OHIO ex rel. ATTORNEY
GENERAL DAVE YOST
441 Vine Street, 1600 Carew Tower
Cincinnati, Ohio 45202

Plaintiff,

v.

PEAK CONSTRUCTION SERVICES, LLC
3006 Seneca St.
Middletown, OH 45044

and

BYRON INGRAM, individually and d/b/a
PEAK CONSTRUCTION SERVICES, LLC
414 Manatee St.
Middletown, OH 45044

Defendants.

Case No.

Judge

COMPLAINT AND REQUEST FOR
DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF, RESTITUTION
AND CIVIL PENALTIES

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through 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. 1345.07.
2. The actions of Defendants have occurred in Ohio, including Butler County and, as set forth below, are in violation of the Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq., its Substantive Rules, Ohio Administrative Code ("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 of the CSPA.

4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(1), (2), and (3), in that Butler County is where the Defendants reside, where the Defendants had their principal place of business, and where the Defendants conducted activity that gave rise to the claim for relief.

DEFENDANT

5. Defendant Byron Ingram (“Ingram”) is a natural person who resides at 414 Manatee Street, Middletown, OH 45044.
6. Defendant Peak Construction Services, LLC is registered as a Limited Liability Company with the Secretary of State and has been since March 22, 2016.
7. The principal place of business for Defendant Peak Construction Services, LLC was 3006 Seneca Street, Middletown, OH 45044.
8. Defendant Ingram was the owner of Defendant Peak Construction Services, LLC, and dominated, controlled, and directed the business activities and sales conduct of Defendant Peak Construction Services, LLC, and exercised the authority to establish, implement, or alter the policies of Defendant Peak Construction Services, LLC, and committed, allowed, directed, ratified, or otherwise caused the following unlawful acts to occur.
9. Defendants were “supplier(s)” 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).

STATEMENT OF FACTS

10. 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).
11. Defendants accepted monetary deposits from consumers for the purchase of home improvement goods and services and failed to deliver those goods and services within eight weeks.
12. Defendants refused to refund consumers' deposits or payments despite consumers' requests for refunds.
13. Home improvement goods and services that were provided or attempted by Defendants were performed in an incomplete, shoddy, substandard, or unworkmanlike manner.
14. Defendants did not provide consumers with cancellation forms.

PLAINTIFF'S FIRST CAUSE OF ACTION

VIOLATIONS OF THE CSPA

COUNT I - FAILURE TO DELIVER

15. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through fourteen (1-14) of this complaint.
16. Defendants engaged in unfair or deceptive acts or practices in violation of R.C. 1345.02(A) of the CSPA and the Failure to Deliver Rule, O.A.C. 109:4-3-09(A), by accepting money from consumers for goods or services, failing to make full delivery of the promised goods or services, and failing to provide full refunds.

COUNT II – PERFORMING SUBSTANDARD / SHODDY WORK

17. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through sixteen (1-16) of this complaint.
18. Defendants engaged in unfair or deceptive acts and practices in violation of R.C. 1345.02(A) of the CSPA by performing home improvement services in an incomplete, shoddy, substandard, or unworkmanlike manner and failing to correct such work.
19. Such acts and practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendants committed said violation after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

PLAINTIFF'S SECOND CAUSE OF ACTION

VIOLATIONS OF THE HSSA

COUNT I – FAILURE TO PROVIDE CANCELLATION FORM

20. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs one through nineteen (1-19) of this Complaint.
21. Defendants violated the HSSA, R.C. 1345.23(B), by failing to give consumers a cancellation form.
22. The acts and practices described above have been previously determined by Ohio courts to violate the CSPA. Defendants committed said violation after such decisions were available for public inspection pursuant to R.C. 1345.05(B).

PRAYER FOR RELIEF

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

- A. **DECLARE** that each act or practice complained of herein violates the CSPA, R.C. 1345.01 et seq., its Substantive Rules, O.A.C. 109:4-3-01 et seq., and the HSSA, R.C. 1345.21 et seq., in the manner set forth in the complaint.

- B. **ISSUE A PERMANENT INJUNCTION**, pursuant to R.C. 1345.07(A)(2), enjoining the Defendants, doing business under these or any other names, their agents, representatives, salespeople, employees, successors, or assigns, and all persons acting in concert and participation with them, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 *et seq.*, its Substantive Rules, O.A.C. 109:4-3-01 *et seq.*, and the HSSA, R.C. 1345.21 *et seq.*, including, but not limited to, violating the specific statutes and rules alleged to have been violated herein.
- C. **ORDER** Defendants to reimburse all consumers found to have been damaged by Defendants' unlawful actions.
- D. **ASSESS, FINE and IMPOSE** upon Defendants a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein pursuant to R.C. 1345.07(D).
- E. **PROHIBIT** Defendants, as a means of insuring compliance with this Court's Order and with the consumer protection laws of Ohio, from engaging in consumer transactions in this state as a supplier until such time as Defendants have satisfied all monetary obligations ordered pursuant to this litigation.
- F. **ORDER** Defendants to pay all court costs.
- G. **GRANT** Plaintiff its costs in bringing this action, including, but not limited to, the costs of collecting on any judgment awarded.
- 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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