

IN THE COURT OF COMMON PLEAS

FRANKLIN COUNTY, OHIO

STATE OF OHIO ex rel.	)	
OHIO ATTORNEY GENERAL	)	CASE NO.
MICHAEL DEWINE	)	
30 E. Broad Street, 14th Floor	)	
Columbus, Ohio 43215	)	JUDGE:
	)	
Plaintiff,	)	
v.	)	<b><u>COMPLAINT AND REQUEST FOR</u></b>
	)	<b><u>DECLARATORY JUDGMENT,</u></b>
BILL DISTELHORST, individually	)	<b><u>INJUNCTIVE RELIEF, CIVIL</u></b>
and dba B&D CONTRACTING	)	<b><u>PENALTIES, AND OTHER</u></b>
5016 Stoneybrook Blvd.	)	<b><u>APPROPRIATE RELIEF</u></b>
Hilliard, OH. 43026	)	
	)	
Defendant.	)	

**JURISDICTION AND VENUE**

1. Plaintiff, State of Ohio, by and through Attorney General 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 the Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq.
2. The actions of Bill Distelhorst ("Defendant"), hereinafter described, have occurred in Franklin County 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., its Substantive Rules, 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 the CSPA, R.C. 1345.04.

4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1-3) in that Defendant resides in, has his principal place of business in, and some of the transactions complained of herein, and out of which this action arose, occurred in Franklin County, Ohio.

**DEFENDANT**

5. Defendant is a natural person residing at 5016 Stoneybrook Boulevard, Hilliard, Ohio 43026.
6. At all times relevant to this action, Defendant was the sole owner and operator of B&D Contracting, a business located at 5016 Stoneybrook Boulevard, Hilliard, Ohio 43026.
7. Defendant's business, B&D Contracting, is not registered with the Ohio Secretary of State.
8. Defendant is a "supplier" as that term is defined in R.C. 1345.01(C), as he 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. Defendant, as described below, was at all times relevant herein, engaged in "home solicitation sales" as that term is defined in the HSSA, R.C. 1345.21(A), as he engaged in personal solicitations at the residences of consumers, including solicitations in response to or following invitations by consumers.

**STATEMENT OF FACTS**

10. Defendant accepted payment from consumers for the purchase of home improvement goods and services, such as basement finishing and driveway paving, and failed to deliver some of those goods and services within eight weeks.

11. On at least one occasion, Defendant began to provide the contracted services after receiving initial payment from the consumer, but failed to complete the work.
12. After accepting consumers' payments and failing to deliver the services, Defendant failed to refund consumers' payments or deposits.
13. At the time of the transactions, Defendant failed to provide consumers with proper notice of cancellation forms describing the consumers' right to cancel the transactions.

**PLAINTIFF'S FIRST CAUSE OF ACTION:**

**VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT**

**COUNT ONE**  
**FAILURE TO DELIVER**

14. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Thirteen (1-13) of this Complaint.
15. Defendant 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 or services orders, making a full refund, advising the consumer of the duration of an extended delay and offering to send a refund within two weeks if so requested, or furnishing goods or services of equal or greater value as a good faith substitute.

**COUNT TWO**  
**SHODDY, INCOMPLETE, OR SUBSTANDARD WORK**

16. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Thirteen (1-13) of this Complaint.

17. Defendant has committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by performing home improvement services in an incomplete, shoddy, or substandard manner, and then failing to correct or complete such work.
18. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, 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 THREE**  
**FAILURE TO REGISTER OR REPORT A FICTITIOUS BUSINESS NAME**

19. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Thirteen (1-13) of this Complaint.
20. Defendant committed unfair or deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by failing to register or report his use of a fictitious business name to the Ohio Secretary of State, as required under R.C. 1329.01.
21. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, 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).

**PLAINTIFF'S SECOND CAUSE OF ACTION:**

**VIOLATIONS OF THE HOME SOLICITATION SALES ACT**

**COUNT ONE**  
**FAILURE TO PROVIDE PROPER NOTICE OF THREE DAY RIGHT OF RECISSION**

22. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Thirteen (1-13) of this Complaint.

23. Defendant violated the Home Solicitation Sales Act ("HSSA"), R.C. 1345.23 and R.C. 1345.02(A), by failing to give a proper notice to consumers of their right to cancel their contract by a specific date.
24. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, 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).

**PRAYER FOR RELIEF**

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

- A. ISSUE A DECLARATORY JUDGMENT declaring that the acts or practices described herein violate the CSPA, its Substantive Rules, and the HSSA in the manner set forth in this Complaint.
- B. ISSUE PERMANENT INJUNCTIVE RELIEF, pursuant to R.C. 1345.07, enjoining Defendant under his own name or any other name, and all persons acting on behalf of Defendant directly or indirectly, through any corporate or private device, partnership or association, jointly and severally, 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, and the HSSA, R.C. 1345.02 et seq.
- C. ISSUE AN INJUNCTION prohibiting Defendant from acting as a "supplier" as that term is defined in R.C. 1345.01(C) by engaging in any consumer transactions in the State of Ohio until the final ordered restitution of this matter is satisfied in its entirety.
- D. ORDER Defendant, pursuant to R.C. 1345.07(B), to pay restitution to all consumers damaged by Defendant's unlawful acts or practices.

- E. ASSESS, FINE AND IMPOSE upon Defendant 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).
- F. GRANT the Ohio Attorney General his costs in bringing this action.
- G. ORDER Defendant to pay all court costs.
- H. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DEWINE  
Attorney General



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