

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

STATE OF OHIO ex rel.)	
ATTORNEY GENERAL)	
DAVE YOST)	Case No:
30 E. Broad St., 14 th Floor)	
Columbus, Ohio 43215)	
)	Judge:
Plaintiff,)	
v.)	
)	
FRANKLIN C. BOHANAN JR.)	COMPLAINT AND REQUEST FOR
2978 Green Arbor Ln.)	DECLARATORY JUDGMENT,
Dublin, Ohio 43017)	INJUNCTIVE RELIEF, CIVIL
)	PENALTIES, AND OTHER
and)	APPROPRIATE RELIEF
)	
FBGM LLC)	
320 London Road STE 103)	
Delaware, Ohio 43015)	
)	
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. The actions of Franklin C. Bohanan Jr. and FBGM LLC ("Defendants"), hereinafter described, have occurred in Delaware 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 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 R.C. 1345.04 of the CSPA.
4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(3) and (6), in that Defendants conducted activity that gave rise to the claims for relief in Delaware County and Delaware County is the county in which all or part of the claims for relief arose.

DEFENDANTS

5. Defendant Franklin C. Bohanan Jr. (“Bohanan”) is a natural person residing at 2978 Green Arbor Ln., Dublin, Ohio 43017.
6. Defendant FBGM LLC (“FBGM”) is an Ohio Limited Liability Corporation whose Article of Organization were filed and recorded with the Ohio Secretary of State under Entity Number 4074966 on September 20, 2017.
7. 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 repair and installation of driveway paving material, exterior home repairs, and goods and services for a fee, within the meaning of R.C. 1345.01(A).
8. As defined in R.C. 1345.21(A),(C) and (D), the Defendants are “sellers” as they engaged in the business of effecting “home solicitation sales” by soliciting “buyers” at their residences where they sold home improvement services which were primarily for the buyers’ personal, family or household use.

9. Defendant Bohanan at all times pertinent hereto controlled and directed the business activities and sales conduct of Defendant FBGM, causing, personally participating in, or ratifying the acts and practices of Defendant FBGM, including the conduct giving rise to the violations described herein.

STATEMENT OF FACTS

10. Defendants engaged in the business of providing goods and services to consumers, including installation of driveway paving material, driveway and pavement repair, and, in at least one instance, patio and retaining wall repair, and failed to deliver some of those goods and services within eight weeks.
11. Defendants do not have a retail business establishment having a fixed permanent location where goods are exhibited or services are offered for sale on a continuing basis.
12. Defendants accepted substantial payments from consumers, but failed to begin work for which they were paid.
13. Defendants have refused to refund consumers' deposits or payments despite consumers' requests for refunds.
14. After receiving payment, Defendants sometimes began work but failed to complete the work.
15. 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.
16. Defendants provided shoddy and substandard installation of driveway paving material, driveway and pavement repair, and other services to consumers and then failed to correct

such work. In some instances, Defendants' shoddy workmanship caused additional damage to consumers' properties.

17. Defendants failed to honor the workmanship warranty on the consumers' contracts.

18. At the time of the transactions, Defendants failed to provide proper notice to consumers of their rights to cancel the transactions, including providing a detachable 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 CSPA, R.C. 1345.02(A), 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- SHODDY AND SUBSTANDARD WORK

21. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 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 shoddy and substandard work and then failing to correct such work.

23. 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).

COUNT III-FAILURE TO HONOR WARRANTY

24. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-23 of this Complaint.
25. Defendants committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A) and R.C. 1345(B)(10), by representing that a consumer transaction involved a warranty when that representation was false.
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).

PLAINTIFF'S SECOND CAUSE OF ACTION:

VIOLATION OF THE HSSA

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

27. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-26 of this Complaint.
28. Defendants violated the HSSA, R.C. 1345.23, the CSPA, R.C. 1345.02(A) and O.A.C. 109:4-3-11(A)(5), by failing to evidence sales with written agreements that provide proper notice to consumers of their rights to cancel their transactions, including providing seller signed and dated detachable notice of cancellation forms.

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 the 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), to pay actual damages to all consumers injured by the conduct of the Defendants as set forth in this Complaint.
- D. ASSESS, FINE and IMPOSE upon Defendants a civil penalty of up to \$25,000.00 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 Plaintiff 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 associated with this matter.
- H. ORDER Defendants jointly and severally liable for all monetary amounts awarded herein.

I. GRANT such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

DAVE YOST
Attorney General

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