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Cleveland, Ohio 44113

Court of Common Pleas

New Case Electronically Filed: COMPLAINT
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By: REBECCA F. SCHLAG 0061897

Confirmation Nbr. 2930301

STATE OF OHIO, EX REL. ATTORNEY GENERAL
DAVE YOST

CV 23 983585

vs.

DIAMOND RIDGE CONSTRUCTION SERVICES, LLC,
ET AL

Judge: MICHAEL P. SHAUGHNESSY

Pages Filed: 11

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

STATE OF OHIO, ex rel.	)	CASE NO.
DAVE YOST	)	
Ohio Attorney General	)	JUDGE
Cleveland Regional Office	)	
615 W. Superior Ave., 11th fl.	)	<u>COMPLAINT AND REQUEST FOR</u>
Cleveland, OH 44113-1899	)	<u>DECLARATORY AND INJUNCTIVE</u>
	)	<u>RELIEF, CONSUMER DAMAGES,</u>
Plaintiff,	)	<u>CIVIL PENALTIES AND OTHER</u>
Vs.	)	<u>APPROPRIATE RELIEF</u>
	)	
DIAMOND RIDGE CONSTRUCTION	)	
SERVICES, LLC,	)	
c/o Statutory Agent	)	
Law Office of Mark Turner	)	
2091 Mayfield Road, Ste. 320	)	
Cleveland Heights, OH 44118	)	
	)	
And	)	
	)	
BRIAN STEPP	)	
968 Remsen Road	)	
Medina, OH 44256-9220	)	
	)	
And	)	
	)	
THOMAS BOYD	)	
528 Rothrock Road, Unit 229	)	
Copley, OH 44321	)	
	)	
Defendants.	)	

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 the Ohio Consumer Sales Practices Act (“CSPA”), R.C. 1345.01 et seq., and the Home Construction Service Suppliers Act, (“HCSSA”), R.C. 4722.01 *et seq.*

2. The actions of Defendants, hereinafter described, have occurred in Cuyahoga County as well as other counties around the State of Ohio, and are in violation of the CSPA, R.C. 1345.01 et seq., its Substantive Rules O.A.C. 109:4-3-01 et seq., and the HCSSA, R.C. 4722.01 et seq.

3. This Court has jurisdiction over the subject matter of this action 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 some of the transactions complained of herein, and out of which this action arises, have occurred within Cuyahoga County, Ohio.

DEFENDANTS

5. Defendant Diamond Ridge Construction, LLC (“Diamond Ridge”) is a limited liability corporation in good standing, incorporated in the State of Ohio May 15, 2021. The last known business address location was 27102 Royalton Rd., Columbia Station, Ohio.

6. Defendant Thomas Boyd (“Boyd”) is the Owner and a President of Defendant Diamond Ridge, and resides at 528 Rothrock Road, Unit 229 in Copley Ohio.

7. Defendant Brian Stepp is an individual Owner, President and CEO of Defendant Diamond Ridge, and resides at 968 Remsen Road in Medina, Ohio 44256-9220.

8. At all times relevant to this action, Defendants Stepp and Boyd directed, supervised, approved, controlled, formulated, authorized, ratified, caused, personally participated in, benefitted from and/or otherwise participated in the day to day activities and practices of Defendant Diamond Ridge.

9. Defendants are “suppliers” as that term is defined in R.C. 1345.01(C) as Defendants were, at all times relevant herein, engaged in the business of effecting “consumer transactions” by providing services to individuals for purposes which were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).

10. Defendants are “home construction service suppliers” engaged in “home construction services” as those terms are defined in the HCSSA, R.C. 4722.01(B) and (D), because Defendants contracted with owners to construct “residential buildings” for compensation.

STATEMENT OF FACTS

11. Defendants advertise, market, and sell home improvement and repair services to consumers throughout Ohio, including Cuyahoga County.

12. Defendants entered into contracts with consumers to provide home improvement and repair services.

13. Defendants accepted down payments for home improvement and repair services.

14. In some instances, Defendants did not provide any home improvement repairs or services, or provide refunds for home improvement repairs or services not delivered.

15. In some instances, Defendants provided some home improvement repairs or services but did not provide the full home improvement repairs or services, or complete the work contracted for in a reasonable time or provide a timely refund.

16. In some instances, Defendants accepted partial payment for the home improvement and repair services, and started performance of the services, but thereafter abandoned the work site and failed to complete performance.

17. In some instances, Defendants provided some home improvement repairs or services but those services were shoddy and unworkmanlike.

18. In some instances, Defendants failed to take out the necessary permits, licenses, or registrations required by local, county or state laws to perform home improvement repairs or services.

19. In at least one instance, Defendants failed to compensate a subcontractor for performing home improvement repairs or services, which resulted in the subcontractor putting a lien on the consumer's residence.

20. In addition to providing home improvement and repair services, Defendants sometimes contracted with consumers to construct new residential structures, the cost of which exceeded \$25,000 in cost.

21. With these home construction contracts, Defendants accepted down payments for these structures, and the down payments exceeded ten percent (10%) of the contract price.

22. The home construction contracts failed to include all of the statutorily required information such as Defendants' mailing address, taxpayer identification number, the property owner's address and telephone number, the address or location of the property where the home construction service was to be performed, the anticipated start and completion dates, language pertaining to excess costs, a copy of Defendants' certificate of general liability coverage in an amount not less than \$250,000, and the dated signatures of the Defendants and property owner.

23. For some home construction services, Defendants failed to deliver the work contracted for, and failed to provide a full refund within a reasonable time period.

24. For some home construction services, Defendants did not perform the work in a workmanlike manner.

25. Defendants' failure to perform contracted home improvement services and home construction services in a proper manner has resulted in harm to consumers.

26. Defendant Stepp has been the subject of previous home improvement lawsuits, including United States of America v. Stepp, et al., U.S. District Court, Northern District of Ohio, Case No. 1:16-cr-00295-CAB and State of Ohio ex rel. Yost v. Ashley Nihiser, d/b/a Ashley Contractors, et al., Cuyahoga Court of Common Pleas Case No. CV-18-901172.

27. In State of Ohio ex rel. Yost v. Ashley Nihiser, d/b/a Ashley Contractors, the Court found that Defendant Stepp violated the CSPA by:

- a. Committing unfair and deceptive acts and 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 or services and then permitting eight weeks to elapse without delivering the services ordered making full refunds, advising the consumers of the duration of an extended delay and offering to send a refund within two weeks if requested, or furnishing similar services of equal or greater value as a good faith substitute and
- b. Committing unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by performing substandard work and then failing to correct such work.

28. In Nihiser, the Court further ordered Stepp jointly and severally liable for payment of \$100,000 in civil penalties, and permanently enjoined him from engaging in the same types of CSPA violations as alleged herein.

PLAINTIFF'S FIRST CAUSE OF ACTION: VIOLATIONS OF THE CSPA

CSPA COUNT I
FAILURE TO DELIVER

29. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.

30. Defendants have 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 ordered, making a full refund, advising the consumer of the duration of an extended delay and offering to send a refund within two weeks if requested, or furnishing similar goods or services of equal or greater value as a good faith substitute.

CSPA COUNT II
SHODDY AND SUBSTANDARD WORK

31. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.

32. 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.

33. 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).

CSPA COUNT III
FAILURE TO OBTAIN PERMITS OR LICENSES

34. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.

35. Defendants accepted payments from consumers and began work at consumer residences without first securing all of the requisite permits, registrations or licenses needed to perform the contracted work, in violation of the CSPA, R.C. 1345.02(A).

36. The acts and 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).

CSPA COUNT IV
FAILURE TO REGISTER AS A CONTRACTOR

37. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.

38. Defendants failed to obtain or maintain any registration, license, bond or insurance required by state law or local ordinance prior to performing any home improvement work, in violation of the CSPA, R.C. 1345.02(G).

39. The acts and 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).

CSPA COUNT V
ABANDONING THE WORKSITE AFTER PARTIAL PERFORMANCE

40. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.

41. Defendants accepted partial payment from consumers and began work at consumers' residences, but abandoned the work sites and refused/failed to complete performance of the contracted work in violation of the CSPA, R.C. 1345.02(A).

42. The acts and 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).

CSPA COUNT VI
ENGAGING IN CONSUMER TRANSACTIONS AFTER FAILING TO PAY A
JUDGMENT
(As to Defendant Stepp)

44. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.

45. Defendant Stepp committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by engaging in consumer transactions while having an unsatisfied judgment against the Defendant arising from consumer transactions.

46. The acts and 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).

CSPA COUNT VII
ENGAGING IN CONSUMER TRANSACTIONS IN VIOLATION OF A PREVIOUS
COURT JUDGMENT
(As to Defendant Stepp)

47. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.

48. Defendant Stepp committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by continuing to engage in unfair or deceptive acts and practices in consumer transactions, in the same or similar manner to the unfair or deceptive practices he was prohibited from in 2021. State of Ohio ex rel. Yost v. Ashley Nihiser, d/b/a Ashley Contractors, et al., Cuyahoga Court of Common Pleas Case No. CV-18-901172.

49. The acts and 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: VIOLATIONS OF THE HCSSA

HCSSA COUNT I
FAILURE TO PROVIDE SERVICE CONTRACTS CONTAINING
ALL STATUTORILY REQUIRED INFORMATION

50. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.

51. Defendants violated the HCSSA, R.C. 4722.02, by entering into home construction services contracts with owners, and not including all of the required information in the contracts, such as Defendants' mailing address, taxpayer identification number, the owner's address and telephone number, the address or location of the property where the home construction services were to be performed, the anticipated start and completion dates for the project, required language pertaining to excess costs, a copy of Defendants' certificate of general liability coverage in an amount not less than \$250,000, and the dated signatures of the Defendants and owners.

HCSSA COUNT II
REQUIRING DEPOSIT IN EXCESS OF 10% OF CONTRACT PRICE

52. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.

53. Defendants violated the HCSSA, R.C. 4722.04, by requiring and accepting monetary deposits from consumers in excess of ten percent of the cost of the home construction services contract.

HCSSA COUNT III
FAILURE TO DELIVER

54. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.

55. Defendants violated the HCSSA, R.C. 4722.03(A)(3)(f), by entering into home construction services contracts with owners, failing to deliver services in accordance with the terms and conditions of the contract, and failing to provide a full refund within a reasonable time period.

HCSSA COUNT IV
PERFORMING SERVICES IN AN UNWORKMANLIKE MANNER

56. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.

57. Defendants violated the HCSSA, R.C. 4722.03(A)(3)(d), by entering into home construction services contracts with owners, and failing to perform the services in a workmanlike manner.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. ISSUE A DECLARATORY JUDGMENT** declaring that each act or practice complained of herein violates the CSPA, R.C. 1345.01 et seq., and the HCSSA, R.C. 4722.01 et seq., in the manner set forth in the Complaint;
- B. ISSUE A PERMANENT INJUNCTION** enjoining Defendants, under these or any other names, their agents, representatives, salesmen, employees, successors and assigns and all persons acting in concert or participation with Defendants, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains and from any further violations of the CSPA, R.C. 1345.01 et seq., and the HCSSA, R.C. 4722.01 et seq.;
- C. ISSUE A PERMANENT INJUNCTION** enjoining Defendants from engaging in business as suppliers 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;

- D. IMPOSE** upon Defendants civil penalties in the amount of Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein pursuant to R.C. 1345.07(D) and R.C. 4722.07(D);
- E. ORDER** Defendants to reimburse all consumers found to have been damaged by Defendants' unlawful actions in violation of the CSPA;
- F. ORDER** Defendants to reimburse all consumers found to have been damaged by the Defendants' unlawful actions in violation of the HCSSA;
- G. GRANT** Plaintiff his costs in bringing this action including, but not limited to, the costs of collecting on any judgment awarded;
- H. ORDER** Defendants to pay all court costs; and
- I. GRANT** such further relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

DAVE YOST
OHIO ATTORNEY GENERAL

/s/ Rebecca F. Schlag

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