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CARROLL COMMON PLEAS
WILLIAM R. WOHLWEND

IN THE COURT OF COMMON PLEAS
CARROLL COUNTY, OHIO

STATE OF OHIO ex rel.
ATTORNEY GENERAL
DAVE YOST
615 W. Superior Ave., 11th Fl.
Cleveland, OH 44113-1899

Plaintiff,

v.

AUGUSTINE A. MUSISCA
6048 Mackel Road NE
Carrollton, Ohio 44615

and

MUSISCA CUSTOM
CONSTRUCTION CO.
c/o Augustine A. Musisca, Statutory Agent
6048 Mackel Rd NE
Carrollton, Ohio 44615

and

MUSISCA & SONS CONSTRUCTION LLC)
c/o Augustine A. Musisca, Statutory Agent)
6048 Mackel Rd NE)
Carrollton, Ohio 44615.)

Case No: **2024CVH30603**

Judge: **Michael V Repella, II**

**COMPLAINT AND REQUEST FOR
DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF, CONSUMER
RESTITUTION, CIVIL PENALTIES,
AND OTHER APPROPRIATE RELIEF**

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 Consumer Sales Practices Act, ("CSPA"), R.C. 1345.01 *et seq.*
2. The actions of Musisca Custom Construction Co., Musisca & Sons Construction LLC, and Augustine A. Musisca (collectively "Defendants"), hereinafter described, have occurred in Carrollton and other counties in the State of Ohio and, as set forth below, are in violation of the CSPA, R.C. 1345.01 *et seq.*, and its Substantive Rules, Ohio Adm.Code 109:4-3-01 *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), (3) and (6), in that this is the county where Defendants reside, and conducted some of the activity giving rise to the claims for relief and the county in which all or part of the claims for relief arose.

DEFENDANTS

5. Defendant Augustine A. Musisca ("Musisca") is a natural person residing at 6048 Mackel Rd. NE, Carrollton, Ohio 44615.
6. Defendant Musisca Custom Construction Co. is a domestic for-profit corporation registered with the Ohio Secretary of State on October 9, 2018. Defendant Augustine A. Musisca is the registered agent for this entity.

7. Defendant Musisca & Sons Construction LLC is a domestic for-profit corporation registered with the Ohio Secretary of State on September 4, 2023. Defendant Augustine A. Musisca is the registered agent for this entity.
8. Both Defendant Musisca Custom Construction Co. and Musisca & Sons Construction LLC operate out of Defendant Musisca's residence.
9. Defendant Musisca, at all times relevant to this action, controlled and directed the business activities and sales conduct of Musisca Custom Construction Co. and Musisca & Sons Construction LLC, causing, personally participating in, or ratifying the acts and practices of the same, including the conduct giving rise to the violations described herein.
10. Defendants are each a "supplier," as they engaged in the business of effecting "consumer transactions" by soliciting "consumers" either directly or indirectly for home improvement and construction goods and services for a fee, for purposes that were primarily for personal, family or household use, as those terms are defined in R.C. 1345.01(A), (C), and (D).

STATEMENT OF FACTS

11. Defendants engaged in the business of providing home improvement and construction goods and services to consumers for work on their residences.
12. For example, Defendants have contracted with consumers to provide basement and bathroom remodels, home additions, and outdoor yard work, including building an outdoor shed.
13. Defendants represented to consumers that they would undertake and complete home improvement and construction goods and services and failed to deliver some of those goods and services within eight weeks.

14. Defendants accepted money from consumers for the purchase of home improvement and construction goods and services and failed to deliver those goods or provide the services.
15. In at least one instance, Defendants have refused to refund consumers' payments despite consumers' requests for refunds.
16. In at least one instance, after receiving payment, Defendants began to perform home improvement and construction work, but then failed to complete the work.
17. In at least one instance, Defendants provided shoddy and substandard home improvement and construction services to consumers and then failed to correct such services.
18. Defendants did not provide consumers with refunds when Defendants did not complete the contracted work.
19. In at least one instance, Defendants misrepresented to consumers that they did not need to obtain a permit or registration in order to perform the work on the project when, in fact, a permit and registration were required by the city.
20. Defendants accepted payments from consumers and began work at consumer residences without first securing all of the required permits, registrations or licenses needed to perform the contracted work.

PLAINTIFF'S CAUSE OF ACTION: VIOLATIONS OF THE CSPA
COUNT I- FAILURE TO DELIVER

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

22. Defendants committed unfair or deceptive acts or practices in violation of the Failure to Deliver Rule, Ohio Adm.Code 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 and services ordered, making a full refund, advising the consumers of the duration of an extended delay and offering to send a refund within two weeks if so requested, or furnishing similar goods or services of equal or greater value as a good faith substitute.

COUNT II- SHODDY AND SUBSTANDARD WORK

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

24. 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.

25. 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 OBTAIN PERMIT

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

27. Defendants committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by performing home improvement services or providing home improvement

goods without the required contractor's license or permit for such work as required by county, township or municipal ordinances.

28. 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 IV- FAILURE TO REGISTER AS A CONTRACTOR

29. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
30. Defendants committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by failing to register as a contractor in municipalities which required registration, prior to commencing work on consumer property.
31. 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 V- FALSE AND/OR MISLEADING STATEMENTS

32. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
33. Defendants committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by making false and/or misleading statements regarding the status of home improvement and construction goods and services which consumers relied upon to their detriment.

34. 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).

PRAYER FOR RELIEF

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

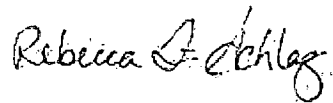
- A. ISSUE A DECLARATORY JUDGMENT that each act or practice complained of herein violates the CSPA, R.C. 1345.01 *et seq.*, and its Substantive Rules Ohio Adm.Code 109:4-3-01 *et seq.*, in the manner set forth in the Complaint.
- B. ISSUE A PERMANENT INJUNCTION enjoining the Defendants, their agents, employees, successors or assigns, and all persons acting in concert and participation with him, 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.*, and its Substantive Rules, Ohio Adm.Code 109:4-3-01 *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 by this Court, and any other court in Ohio in connection with a consumer transaction.

- 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. GRANT such other relief as the court deems to be just, equitable, and appropriate.

Respectfully submitted,

DAVE YOST
Ohio Attorney General



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