

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

STATE OF OHIO ex rel.	)	
ATTORNEY GENERAL	)	
DAVE YOST	)	Case No:
30 E. Broad St., 14 <sup>th</sup> Floor	)	
Columbus, Ohio 43215	)	
	)	Judge:
Plaintiff,	)	
v.	)	
	)	
AMERICAN CONSTRUCTION GROUP, LLC	)	COMPLAINT AND REQUEST
6337 Chittenden Drive	)	FOR DECLARATORY
Hudson, Ohio 44236	)	JUDGMENT, INJUNCTIVE RELIEF,
	)	CONSUMER RESTITUTION,
and	)	CIVIL PENALTIES, AND
	)	OTHER APPROPRIATE RELIEF
WILLIAM H. FOSTER, III	)	
562 Sands Road	)	
Big Pine Key, Florida 33043	)	
	)	
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 Defendants American Construction Group, LLC (“ACG”) and William H. Foster, III (“Foster”)(collectively, “Defendants”), hereinafter described, have occurred in Summit County and other counties in the States of Ohio and Pennsylvania and, as set forth herein, are in violation of the Consumer Sales Practices Act (“CSPA”), R.C. 1345.01, *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)(3) in that Summit County is where the Defendants operated and conducted the activity out of which this action arises.

### **DEFENDANTS**

5. Defendant Foster is a natural person with a last known address located at 562 Sands Road, Big Pine Key, Florida 33043.
6. At all times pertinent hereto, Defendant Foster resided at 915 Creek View Dr., Aurora, Ohio 44202.
7. Defendant ACG was a domestic limited liability company registered with the Ohio Secretary of State on or about February 18, 2009. The Secretary of State of Ohio cancelled Defendant ACG's registration on August 14, 2024 for failure to maintain a statutory agent.
8. At all times pertinent hereto, Defendant ACG operated out of its principal place of business located at 6337 Chittenden Drive, Hudson, Ohio 44236.
9. Defendant Foster is the sole owner of Defendant ACG.
10. At all times pertinent hereto, Defendant Foster controlled and directed the business activities and sales conduct of Defendant ACG, causing, personally participating in, or ratifying the acts and practices of the same, including the conduct giving rise to the violations described herein.
11. Defendants are "suppliers," as that term is defined in the CSPA, R.C. 1345.01(C), as they each engaged in the business of soliciting or effecting "consumer transactions" by offering

for sale and selling residential swimming pool design and installation services to individual consumers in the States of Ohio and Pennsylvania for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A).

### **STATEMENT OF FACTS**

12. Defendants engaged in the business of advertising, soliciting for sale, selling, and providing residential swimming pool design and installation services to individual consumers in the States of Ohio and Pennsylvania.
13. Prior to commencing residential swimming pool design and installation services, Defendant ACG entered into contractual agreements with consumers, which set out, among other terms, the specifications of the swimming pool projects, total amount to be paid for the services, and schedule of payments.
14. Defendant Foster participated directly in the solicitation and sale of the swimming pool design and installation services, including but not limited to:
  - a. determining the number of pool projects that Defendant ACG could agree to at any given time;
  - b. meeting with consumers at their residences to solicit and sell the swimming pool design and installation services;
  - c. determining the necessary specifications for the swimming pool design and installation services;
  - d. determining the cost for the swimming pool design and installation services along with the schedule and amounts for advance deposits and subsequent payments;

- e. promising completion dates for the swimming pool design and installation services;
  - f. signing consumer contracts on behalf of Defendant ACG; and
  - g. collecting advance deposits from consumers for swimming pool design and installation services.
15. After consumers signed a contract with Defendant ACG and made their required deposits and/or payments, Defendants, in many instances:
- a. failed to obtain necessary construction permits for the pool projects;
  - b. provided contracted pool design and installation services in a shoddy, substandard, and unworkmanlike manner, and failed to either correct the same or refund consumer payments;
  - c. failed to follow agreed construction schedules and/or after performing some initial work, abandoned the pool projects;
  - d. failed to refund consumer's payments for contracted work that was not completed;
  - e. misstated construction timelines for the pool projects; and/or
  - f. failed to pay subcontractors and materialmen that provided services or materials for the pool projects.
16. Several consumers that signed contracts with Defendant ACG for swimming pool services filed lawsuits against the Defendants for incomplete and/or inadequate swimming pool design and installation services, including under the CSPA, with several obtaining judgments that remain unpaid by Defendants.
17. After the filing of the consumer lawsuits and entry of judgments against the Defendants for

violations of the CSPA, the Defendants continued to engage in the business of advertising, soliciting for sale, selling, and providing residential swimming pool design and installation services.

18. Defendants solicited sales for swimming pool projects from consumers despite the fact that they knew or should have known that they did not have the ability and/or resources to perform the work that they promised and for which consumers paid.
19. Many consumers that were harmed by Defendants' business practices also filed complaints with the Ohio Attorney General's Office and the Better Business Bureau concerning Defendants' business practices with cumulative damages alleged to be in excess of \$1,000,000.

### **VIOLATIONS OF OHIO'S CONSUMER SALES PRACTICES ACT**

#### **COUNT I – SHODDY AND SUBSTANDARD WORK**

20. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
21. Defendants committed unfair or deceptive acts and practices in violation of the CSPA, R.C. 1345.02(A), by entering into consumer transactions for the design and installation of residential swimming pools but then providing some of the contracted services in a shoddy, substandard, and unworkmanlike manner without correcting the same.
22. 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 II – ABANDONING WORKSITE AFTER PARTIAL PERFORMANCE**

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 or practices in violation of the CSPA, R.C. 1345.02(A), by accepting payments from consumers and beginning to provide contracted residential pool design and installation services but then abandoning the worksites without completing the same.
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 –  
CONTINUING TO ENGAGE IN CONSUMER TRANSACTIONS  
WITH UNPAID JUDGMENTS**

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 or practices in violation of the CSPA, R.C. 1345.02(A), by continuing to engage in consumer transactions as suppliers without first satisfying prior unpaid judgments for CSPA violations obtained against them.
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 – UNCONSCIONABLE SALES ACTS OR PRACTICES**

29. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth

in the preceding paragraphs of this Complaint.

30. Defendants committed unconscionable sales acts or practices in violation of the CSPA, R.C. 1345.03(A), in consideration of R.C. 1345.03(B)(3), by entering into consumer transactions for the sale of swimming pool design and installation services, when Defendants knew at the time of such transactions of the inability of consumers to receive a substantial benefit from the consumer transactions.
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).

### **PRAYER FOR RELIEF**

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

- A. ISSUE A DECLARATORY JUDGMENT, pursuant to R.C. 1345.07(A)(1), that each act or practice complained of herein violates the CSPA, R.C. 1345.01 *et seq.*, in the manner set forth in this Complaint.
- B. ISSUE A PERMANENT INJUNCTION, pursuant to R.C. 1345.07(A)(2), enjoining the Defendants, together with their agents, employees, partners, successors or assigns, and all persons acting in concert and participation with any of them, directly or indirectly, through any corporate device, partnership, or other association, under their own 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.*
- C. ORDER Defendants, pursuant to R.C. 1345.07(B), to pay damages to all consumers injured by the conduct of the Defendants as set forth in this Complaint.

- D. ASSESS, FINE and IMPOSE upon Defendants, pursuant to R.C. 1345.07(D), a civil penalty of up to \$25,000.00 for each separate and appropriate violation of the CSPA described herein.
- E. ISSUE AN INJUNCTION, pursuant to the Court's authority in R.C. 1345.07(B) to grant other appropriate relief, enjoining each of the Defendants from owning, controlling, managing, or otherwise having any decision-making authority or involvement with the advertisement, sales, or operation practices of any person or business engaged in the business of advertising, soliciting for sale, selling, and/or providing swimming pool design, installation, construction, or repair services in the State of Ohio until all monetary amounts ordered to be paid in this action have been satisfied.
- F. ORDER Defendants to pay all court costs associated with this matter.
- G. GRANT such other relief as the court deems to be just, equitable, and appropriate.

Respectfully submitted,

DAVE YOST  
Attorney General

/s/ W. Travis Garrison  
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*Counsel for Plaintiff, State of Ohio*