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CLERK OF THE CHEYENNE COUNTY DISTRICT COURT
CASE NUMBER: 2018-CV-000012



Court: Cheyenne County District Court
Case Number: 2018-CV-000012
Case Title: State of Kansas ex rel Derek Schmidt Atty General
vs. Karen Overy, et al.
Type: Journal Entry of Consent Judgment

SO ORDERED.

A handwritten signature in cursive script that reads "Scott Showalter".



/s/ Honorable Scott Showalter, District Court Judge

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**IN THE DISTRICT COURT OF CHEYENNE COUNTY, KANSAS
FIFTEENTH JUDICIAL DISTRICT**

STATE OF KANSAS, <i>ex rel.</i>)	
DEREK SCHMIDT, Attorney General,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2018-CV-12
)	
KAREN OVERY, an individual)	
FRANK OVERY, an individual)	
D/B/A AFFORDABLE EXTERIORS)	
)	
Defendants.)	
_____)	

(Pursuant to K.S.A. Chapter 60)

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this date, the parties' Journal Entry of Consent Judgment comes before the Court pursuant to K.S.A. 50-632(b). The Plaintiff, State of Kansas, *ex rel.* Derek Schmidt, Attorney General, appears by and through Jonathan E. Trotter, Assistant Attorney General.

WHEREUPON the parties advise the Court that they have stipulated and agreed to the following:

PARTIES, JURISDICTION AND VENUE

1. Derek Schmidt is the duly elected, qualifying and acting Attorney General for the State of Kansas.
2. The Attorney General's authority to bring this action is derived from the statutory and

common law of the State of Kansas, specifically the Kansas Consumer Protection Act ("KCPA"), K.S.A. 50-623 *et seq.*, and the Kansas Roofing Registration Act ("KRRRA"), K.S.A. 2017 Supp. 50-6,121, *et seq.*

3. Karen Overy ("Defendant") is an individual with a residential address at 401 E 5th Street, Bird City, Kansas 67731.

4. Frank Overy ("Defendant") is an individual with a residential address at 401 E 5th Street, Bird City, Kansas 67731.

5. Affordable Exteriors ("Defendant") is a Kansas sole proprietorship with a mailing address at 401 E 5th Street, Bird City, Kansas 67731.

6. All references to Defendants herein include acts performed individually, in concert, or by or through his employees, directors, officers, owners, managers, agents, assigns, and all other persons or entities acting in concert with them or on their behalf, including their predecessors, subsidiaries, affiliates and successors.

7. Jurisdiction and venue are appropriate in District Court of Cheyenne County, Kansas, pursuant to K.S.A. 50-638(a) and (b), respectively.

ALLEGATIONS

8. Plaintiff alleges that Defendants have acted as a "supplier" in Kansas, as that term is defined by K.S.A. 50-624(l).

9. Plaintiff alleges that Defendants have engaged in "consumer transactions" in Kansas, as that term is defined by K.S.A. 50-624(c).

10. Plaintiff alleges that Defendants are a "roofing contractor," as that term is defined by K.S.A. 2017 Supp. 50-6,122(a)(1).

11. Plaintiff alleges that at all times relevant hereto, Defendants engaged in acts and

practices in violation of the Kansas Roofing Registration Act, K.S.A. 2017 Supp. 50-6,121 *et seq.*, which acts and practices include, but are not limited to the following:

- a. Defendants acted as a roofing contractor in the state of Kansas.
- b. Defendants performed roofing services in the state of Kansas.
- c. When Defendants performed roofing services in the state of Kansas, they were not properly registered to do so with the Office of the Kansas Attorney General.

INJUNCTIVE RELIEF

12. Defendants agree to comply with all Kansas laws, statutes, rules and regulations relating to consumer transactions in Kansas, specifically, but not limited to, the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

13. Defendants agree to comply with the Kansas Roofing Registration Act, K.S.A. 2017 Supp. 50-6,121 *et seq.*, while acting as a roofing contractor and performing roofing services in the State of Kansas.

14. Defendants shall not cause or encourage third parties, nor knowingly permit third parties acting on their behalf, to engage in practices from which Defendants are prohibited by this Consent Judgment.

15. Defendants shall not participate, directly or indirectly, in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices which are prohibited in this Consent Judgment or for any other purpose which would otherwise circumvent the spirit or purposes of this Consent Judgment.

16. Defendants agree that the terms of this Consent Judgment apply to acts performed individually, in concert, or by or through its employees, agents, representatives, affiliates, assignees and successors.

MONETARY RELIEF

17. Defendants agree to pay the Office of the Kansas Attorney General \$2,500.00 in

civil penalties for violations of the Kansas Roofing Registration Act, pursuant to K.S.A. 2017 Supp. 50-6,123 and K.S.A. 50-636.

18. Payment shall be made in the form of a cashier's check, money order or other certified funds payable to the Office of the Kansas Attorney General, mailed to:

Jonathan E. Trotter, Assistant Attorney General
Office of the Kansas Attorney General
120 SW 10th Ave., 2nd Floor
Topeka, Kansas 66612

OTHER PROVISIONS

19. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Consent Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations thereof.

20. If any portion, provision, or part of this Consent Judgment is held to be invalid, unenforceable, or void for any reason whatsoever, that portion shall be severed from the remainder and shall not affect the validity or enforceability of the remaining provisions, portions, or parts.

21. Compliance with this Consent Judgment does not relieve Defendants of any obligation imposed by applicable federal, state, or local law, nor shall this Consent Judgment preclude the Plaintiff from taking appropriate legal action to enforce any other statutes under his jurisdiction or from any other Federal or State agency to enforce any other federal, state, or local law under its jurisdiction.

22. The parties understand that this Consent Judgment shall not be construed as an approval of or sanction by the Attorney General of Defendants' business practices, nor shall Defendants represent the Consent Judgment as such approval. The parties further understand and

agree that any failure by the State of Kansas or by the Attorney General to take any action in response to any information submitted pursuant to this Consent Judgment shall not be construed to be an approval of or sanction of any representations, acts, or practices of Defendants, nor shall any inaction by the Attorney General be considered a waiver by the attorney general of any rights under this Consent Judgment or applicable law.

23. This Consent Judgment represents the entire agreement between Plaintiff and Defendants. There are no representations, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter of this Consent Judgment which are not fully expressed herein or attached hereto.

24. Defendants hereby represent and warrant that Defendants have had the opportunity to consult with and receive the advice of legal counsel regarding all matters relative to this Consent Judgment, including the rights and obligations of Defendants under this Consent Judgment and the consequences of breach hereunder. Defendants represent that Defendants have read the Consent Judgment and knows and understands the contents thereof. Defendants further represent and warrant that Defendants are signing this Consent Judgment as the result of his own free act, and that Defendants have not relied on any statement(s) or representation(s) of the Attorney General or anyone acting on his behalf, except for those contained in this Consent Judgment.

25. By signing this Consent Judgment, the representative of Defendants represent and warrant that such person is duly and legally authorized to execute this Consent Judgment on behalf of Defendants, thus binding Defendants to the provisions of this Consent Judgment.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the

stipulation and agreement of the parties contained herein are adopted and approved as findings of fact and conclusions of law of the Court and any monies owed hereunder by Defendants immediately becomes a judgment upon filing.

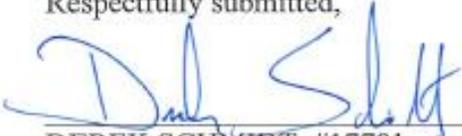
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendants in favor of Plaintiff in the amount of \$2,500.00 in civil penalties for violations of the Kansas Roofing Registration Act, K.S.A. 2017 Supp. 50-6,121.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas Consumer Protection Act, the provisions of K.S.A. 50-632(b) and the Kansas Roofing Registration Act, the court hereby approves the terms of the Consent Judgment and adopts the same as the Order of the Court.

IT IS SO ORDERED.

THIS ORDER IS EFFECTIVE AS OF THE DATE AND TIME SHOWN ON THE ELECTRONIC FILE STAMP.

Respectfully submitted,


DEREK SCHMIDT, #17781
Kansas Attorney General

/s/ Jonathan E. Trotter

Jonathan E. Trotter, #27650
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Approved by:


Karen Overy
d/b/a Affordable Exteriors


Frank Overy
d/b/a Affordable Exteriors