



Court: Shawnee County District Court
Case Number: 2018-CV-000436
Case Title: State of Kansas ex rel Derek Schmidt Atty General
vs. Homescape Inc
Type: Journal Entry of Consent Judgment

SO ORDERED.

A handwritten signature in black ink, appearing to read "T. Watson".

/s/ Honorable Teresa L Watson, District Court Judge

Jonathan E. Trotter, #27650
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**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
THIRD JUDICIAL DISTRICT**

STATE OF KANSAS, <i>ex rel.</i>)	
DEREK SCHMIDT, Attorney General,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2018-CV-436
)	Division No. 3
)	
HOMESCAPE, INC.)	
)	
Defendant.)	
)	

(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 ("KRRR"), K.S.A. 2017 Supp. 50-6,121, *et seq.*

3. Defendant HomeScape, Inc. is a Kansas corporation with a principal place of business at 7040 SW Fountaindale Rd., Topeka, Kansas 66614.

4. All references to Defendant herein include acts performed individually, in concert, or by or through 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.

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

ALLEGATIONS

6. Plaintiff alleges that Defendant has acted as a "supplier" in Kansas, as that term is defined by K.S.A. 50-624(1).

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

8. Plaintiff alleges that Defendant is a "roofing contractor," as that term is defined by K.S.A. 50-6,122(a)(1).

9. Plaintiff alleges that at all times relevant hereto, Defendant 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. Defendant acted as a roofing contractor in the state of Kansas.
- b. Defendant performed roofing services in the state of Kansas.
- c. When Defendant performed roofing services in the state of Kansas, it was not properly registered to do so with the Office of the Kansas Attorney General.

- d. Defendant hired unregistered roofing subcontractors to perform roofing services for a fee in the state of Kansas, in violation of K.S.A. 2017 Supp. 50-6,123.

10. At all times relevant hereto, Defendant engaged in acts and practices in violation of the Kansas Consumer Protection act, K.S.A. 50-623, *et. seq.*, which acts and practices include, but are not limited to the following:

- a. Defendant entered into a door-to-door sale in which the consumer was not furnished with written notice of the consumer's right to cancel the transaction at any time until the third business day following the transaction, in violation of K.S.A. 50-640(b)(5).
- b. Defendant entered into a door-to-door sale in which Defendant negotiated evidence of indebtedness prior to midnight of the fifth day following the transaction, in violation of K.S.A. 50-640(b)(8).
- c. Defendant entered into a consumer transaction from which the consumer was unable to receive a material benefit of the subject of the transaction, in violation of K.S.A. 50-627(b)(5).
- d. Defendant's acts or practices in violation of the Kansas Consumer Protection Act were committed against a protected consumer as that term is defined by K.S.A. 50-675(a) and used in K.S.A. 50-677.

INJUNCTIVE RELIEF

11. Defendant agrees 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.*

12. Defendant agrees 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.

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

14. Defendant 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.

15. Defendant agrees that engaging in any door-to-door solicitations and sales in the state of Kansas without a valid Kansas roofing registration certificate, including door-to-door solicitations of roofing-related services, shall constitute a violation of this Consent Judgment.

16. Defendant acknowledges and admits that if Defendant participates, directly or indirectly, in any door-to-door solicitation or sale in the state of Kansas in violation of this Consent Judgment, it is committing a crime and may be subject to prosecution pursuant to K.S.A. 21-6423, a Level 9, Person Felony.

17. Defendant acknowledges and admits that if Defendant causes, directs, employs, enables or assists others in engaging in door-to-door solicitations or sales in the state of Kansas in violation of this Consent Judgment, they are committing a crime and may be subject to prosecution pursuant to K.S.A. 21-6423, a Level 9, Person Felony.

18. Defendant agrees 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

19. Defendant agrees to pay consumer restitution to the Office of the Kansas Attorney General in the amount of \$9,262.34 to be distributed to the consumer, M.A., pursuant to K.S.A. 50-632(b).

20. Payment for consumer restitution shall be made over the course of thirty-six (36) months, in the amount of \$100.00 per month for twelve (12) months, \$200.00 per month for twelve

(12) months, \$300.00 per month for twelve (12) months and a final payment of \$2,062.34, beginning June 1, 2018, and on or before the 1st of each following month until payment in full has been made.

21. Defendant agrees to pay the Office of the Kansas Attorney General \$10,000.00 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.

22. Payment for civil penalties shall be made over the course of thirty-six (36) months, in the amount of \$100.00 per month for twelve (12) months, \$200.00 per month for twelve (12) months, \$300.00 per month for twelve (12) months and a final payment of \$2,800.00, beginning June 1, 2022 or at the time consumer restitution has been paid in full, and on or before the 1st of each following month until payment in full has been made.

23. 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

24. Proceedings instituted under the foregoing paragraphs are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings Plaintiff may initiate to enforce this Consent Judgment.

OTHER PROVISIONS

25. 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.

26. 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.

27. Compliance with this Consent Judgment does not relieve Defendant 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.

28. The parties understand that this Consent Judgment shall not be construed as an approval of or sanction by the attorney general of Defendant's business practices, nor shall Defendant 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 Defendant, 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.

29. This Consent Judgment represents the entire agreement between Plaintiff and the Defendant. 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.

30. Defendant hereby represents and warrants that Defendant has 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 Defendant under this Consent Judgment and the

consequences of breach hereunder. Defendant represents that Defendant has read the Consent Judgment and knows and understands the contents thereof. Defendant further represents and warrants that Defendant is signing this Consent Judgment as the result of his own free act, and that Defendant has 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.

31. By signing this Consent Judgment, the representative of Defendant represents and warrants that such person is duly and legally authorized to execute this Consent Judgment on behalf of this Defendant, thus binding Defendant 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 Defendant immediately becomes a judgment upon filing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant in favor of Plaintiff in the amount of \$9,262.34 for consumer restitution.

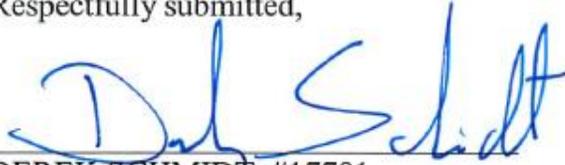
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant in favor of Plaintiff in the amount of \$10,000.00 for civil penalties.

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, K.S.A. 2017 Supp. 50-6,121 the court hereby approves the terms of the Consent Judgment and adopts the same as the Order of the Court.

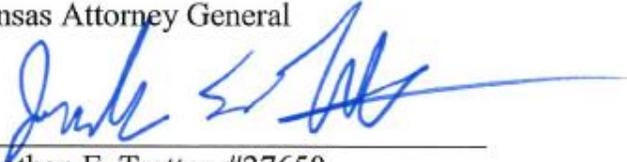
IT IS SO ORDERED.

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

Respectfully submitted,



DEREK SCHMIDT, #17781
Kansas Attorney General

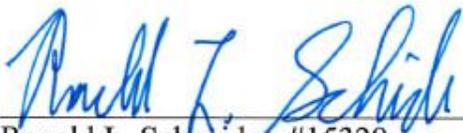


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