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2020 Jun 12 AM 11:02  
CLERK OF THE SHAWNEE COUNTY DISTRICT COURT  
CASE NUMBER: 2020-CV-000308



**Court:** Shawnee County District Court  
**Case Number:** 2020-CV-000308  
**Case Title:** State of Kansas ex rel Derek Schmidt Atty General  
vs. Winterstone LLC  
**Type:** Journal Entry of Consent Judgment

SO ORDERED.

A handwritten signature in black ink that reads "Thomas G. Luedke".

/s/ Thomas G. Luedke, Honorable District Court  
Judge

Kimberley A. Davenport, #28078  
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**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
THIRD JUDICIAL DISTRICT**

<b>STATE OF KANSAS, <i>ex rel.</i></b>	)	
<b>DEREK SCHMIDT, Attorney General,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 2020-CV-308</b>
	)	
<b>WINTERSTONE, LLC</b>	)	
<b>A Nebraska corporation,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

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**(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 Kimberley A. Davenport, 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. 50-6,121 *et seq.*

3. Defendant Winterstone, LLC is a limited liability company registered as such with the Nebraska Secretary of State. The Defendant is not registered to do business with the Kansas Secretary of State. The mailing address for the principal place of business for the Defendant is 821 S. 11<sup>th</sup> Street, Lincoln, Nebraska 68508. The mailing address for the registered agent for the Defendant is 134 S. 13<sup>th</sup> Street, Suite 400, Lincoln, Nebraska 68508.

4. All references to the 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. Defendant has acted as a "supplier" in Kansas, as that term is defined by K.S.A. 50-624(l).

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

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

a. The Defendant acted as a roofing contractor in the state of Kansas.

b. The Defendant offered and contracted to perform roofing services in the state of Kansas.

c. The Defendant did not hold a roofing contractor registration certificate issued by the Office of the Kansas Attorney General at the time of performing roofing services in the state of Kansas, in violation of K.S.A. 50-6,133(a)(6).

#### **INJUNCTIVE RELIEF**

10. The 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.*

11. The Defendant agrees to comply with the Kansas Roofing Registration Act, K.S.A. 50-6,121 *et seq.*, while acting as a roofing contractor and performing roofing services in the state of Kansas.

12. The Defendant 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.

13. The 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.

14. The 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.

#### **CIVIL PENALTIES**

15. The Defendant agrees 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. 50-6,123 and K.S.A. 50-636.

16. 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:

Kimberley Davenport, Assistant Attorney General  
Attn: Roofing Registration Unit  
Office of the Kansas Attorney General  
120 SW 10<sup>th</sup> Ave., 2<sup>nd</sup> Floor  
Topeka, Kansas 66612

## **OTHER PROVISIONS**

17. 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.

18. 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.

19. 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.

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

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

22. 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.

23. 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 the 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 the Defendant immediately becomes a judgment upon filing.

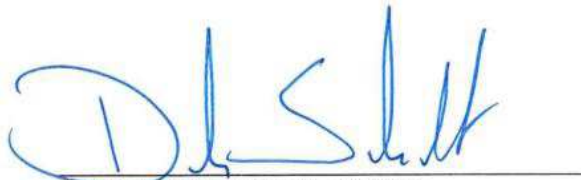
**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that judgment is entered against the Defendant in favor of Plaintiff in the amount of \$2,500.00 for violations of the Kansas Roofing Registration Act, K.S.A. 50-6,121 *et seq.*

**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 by:




DEREK SCHMIDT, #17781  
Kansas Attorney General



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Approved by:



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Winterstone, LLC  
Cesar Arza, Member



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*Attorney for Defendant*

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