



Court: Shawnee County District Court
Case Number: 2018-CV-000076
Case Title: State of Kansas ex rel Derek Schmidt Atty General
vs. Shawn Obermann, et al.
Type: Journal Entry of Consent Judgment

SO ORDERED.

A handwritten signature in black ink that reads "Richard D. Anderson".

/s/ Honorable Richard Anderson, District Judge

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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-76 |
| |) | Division No. 2 |
| SHAWN OBERMANN, <i>et al.</i> |) | |
| |) | |
| 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. The Defendants, Shawn Obermann, Armor Roofing, LLC and Armour Roofing, LLC, by and through counsel Terry A. Iles of the Law Office of Terry A. Iles. There are no other appearances and none are required.

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 Shawn Obermann ("Defendant") is an individual operating as a sole proprietorship under the name Armor Roofing.

4. Defendant Armour Roofing, LLC ("Defendant") is a Missouri limited liability company.

5. Defendant is also known as, Armor Roofing, LLC ("Defendant"), a Kansas limited liability company.

6. Defendant Armour Roofing, LLC has a principal place of business at 4741 Central Street, Kansas City, Missouri 64112.

7. All references to Defendants 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.

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

ALLEGATIONS

9. Plaintiff alleges that Defendants have acted as "suppliers" in Kansas, as that term is defined by K.S.A. 50-624(1).

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

11. Plaintiff alleges that Defendants are "roofing contractors," as that term is defined

by K.S.A. 2017 Supp. 50-6,122(a)(1).

12. 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 roofing contractors in the state of Kansas, without being properly registered to do so with the Office of the Kansas Attorney General.
- b. Defendants performed roofing services in the state of Kansas, without being properly registered to do so with the Office of the Kansas Attorney General.
- c. When Defendants performed and solicited 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

13. Defendants agree to refrain, and be permanently enjoined, from engaging in those acts and practices set forth in paragraph twelve (12) specifically, those violations of the Kansas Roofing Registration Act, K.S.A. 2017 Supp. 50-6,121 *et seq.* set forth in paragraph 12(c) and agrees that engaging in such acts or similar acts after the date of this Consent Judgment shall constitute a violation of this Consent Judgment.

14. Defendants agree 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.

15. Defendants agrees to refrain, and be permanently enjoined, from engaging in those acts and practices set forth in paragraph (12), specifically, violations of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, and agrees that engaging in such acts or similar acts after the date of this Consent Judgment shall constitute a violation of this Consent Judgment.

16. 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.*

17. Defendants agree to be permanently enjoined from entering into, forming, organizing or reorganizing into any partnership, corporation, sole proprietorship or any other legal structures, for the purpose of avoiding compliance with the terms of this Consent Judgment.

18. Defendants agree to make available and/or disclose the provisions of this Consent Judgment to each officer, director, member, manager, employee, agent, independent contractor and representative having responsibilities with respect to the subject matter of this Consent Judgment within ten (10) days of signing the Consent Judgment or within fifteen (15) days after any person assumes such position or responsibilities.

19. 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.

20. Plaintiff and Defendants are in agreement that upon the date of approval of this Consent Judgment by the Court, the *Ex Parte* Temporary Restraining Order will be lifted and will not prevent or otherwise prohibit Defendant Armor Roofing, LLC from acting as or being a roofing contractor, soliciting roofing related services and/or performing roofing related services in the State of Kansas.

21. Plaintiff and Defendants are in agreement that Defendant Armor Roofing, LLC will be approved for certification as a roofing contractor with the Office of the Kansas Attorney General, upon signature by the Kansas Attorney General, pursuant to K.S.A. 2017 Supp. 50-6,125, which shall not be unreasonably withheld.

MONETARY RELIEF

22. Defendants agree to pay the Office of the Kansas Attorney General \$7,500.00 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. Upon full payment of the \$7,500.00, the Office of the Kansas Attorney General shall promptly file its Satisfaction of Monetary Judgment in the above-captioned matter.

23. Payment shall be made over the course of twenty-four (24) months, in the amount of \$312.50 per month, beginning the 1st of September and on or before the 1st of each following month until payment in full has been made.

24. 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

25. Defendants agree to discharge the remainder of \$2,630.00 due from Consumer M.T. under the contract for services not performed.

SUSPENDED MONETARY JUDGMENT

26. Judgment is hereby entered in favor of Plaintiff and against Defendants in the amount of \$262,500.00 for the payment of civil penalties for violations of the Kansas Consumer Protection Act, pursuant to K.S.A. 50-636(c). Provided, however, this monetary judgment shall be suspended against Defendants as long as the Court makes no finding(s), as provided in the following section of this Consent Judgment titled "Right to Reopen," that Defendants have violated any provision of this Consent Judgment.

RIGHT TO REOPEN

27. Plaintiff's agreement to the Suspended Monetary Judgment contained in this Consent Judgment is expressly premised upon Defendants' material compliance with the terms of this Consent Judgment.

28. Defendants' "material compliance" with the terms of this Consent Judgment shall mean material compliance with all of the provisions included in Paragraphs 12-26.

29. If, upon motion by the Attorney General to the Court, the Court finds that Defendants have violated a material term of this Consent Judgment, the suspension of the monetary judgment as to Defendants will be terminated and the entire judgment amount of \$262,500.00 shall become immediately due and payable to Plaintiff, and interest computed at the rate prescribed under Kansas law, shall begin immediately to accrue on the unpaid balance.

30. Defendants agree that pursuant to 11 U.S.C. § 523(a)(2)(A) and § 523(a)(7), and due to the nature of the conduct underlying this settlement, any unpaid penalties and/or fees shall not be dischargeable in any bankruptcy proceeding commenced after the entry of this Consent Judgment.

31. 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

32. 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.

33. 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.

34. 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.

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

36. This Consent Judgment represents the entire agreement between Plaintiff and Defendants, 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.

37. 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 know and understand the contents thereof. Defendants further represent and warrant that Defendants are signing this Consent Judgment as the result of their 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.

38. By signing this Consent Judgment, the representative of Defendants represents and warrants 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 \$7,500.00 for civil penalties for violations of the Kansas Roofing Registration Act.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendants in favor of Plaintiff, and suspended, in the amount of \$262,500.00 for civil penalties for violations of the Kansas Roofing Registration Act.

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. 50-6,122, 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 OF THE ELECTRONIC FILE STAMP.

Respectfully submitted,



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KANSAS ATTORNEY GENERAL



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Attorney for Plaintiff

Approved by:

/s/ Shawn Obermann

Shawn Obermann, Owner
d/b/a Armor Roofing
Armour Roofing, LLC
a/k/a Armor Roofing, LLC

/s/ Terry A. Iles

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