

NORTH CAROLINA

FILED IN THE GENERAL COURT OF JUSTICE

WAKE COUNTY

SUPERIOR COURT DIVISION

2014 JUL 14 P 02:01

File No. _____

WAKE COUNTY, C.S.C.

STATE OF NORTH CAROLINA, ^{BY} ~~ex rel.~~)
ROY COOPER, ATTORNEY GENERAL,)

Plaintiff,)

v.)

AMERICAN KITCHEN CORPORATION,)
ROBERT SELFORS, individually and as)
agent and manager of AMERICAN)
KITCHEN CORPORATION, and)
TYLER JUSTIN SHEETS, individually)
and as agent and manager of AMERICAN)
KITCHEN CORPORATION,)

Defendants.)

COMPLAINT

INTRODUCTION

Plaintiff brings this deceptive trade practices action against defendants, alleging that they devised and operated a now-defunct kitchen remodeling business that required substantial advance deposits and an ever-increasing number of new customers in order to finance the jobs the business had undertaken earlier. The business was not unlike a Ponzi scheme and was destined to fail, leaving its newest customers high and dry. Defendants Selfors and Sheets operated a similar business named Kitchen Carolina which failed four years ago, causing substantial harm to North Carolina home owners. Plaintiff seeks victim restitution, civil penalties and injunctive relief pursuant to the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. §75-1.1, *et seq.*

PARTIES

1. Plaintiff is the State of North Carolina, on relation of its Attorney General, Roy Cooper, who brings this action pursuant to authority found in Chapters 75 and 114 of the North Carolina General Statutes.

2. Defendant American Kitchens Corporation is a North Carolina corporation which has its principal place of business in Alamance County, North Carolina, in the city of Burlington.

3. Defendant Robert Selfors is, upon information and belief, a resident of Durham County, North Carolina.

4. Upon information and belief, at all times relevant to this action defendant Selfors was a *de facto* manager of defendant American Kitchen Corporation and helped devise and implement the business practices of defendant American Kitchen Corporation that are the basis for this action.

5. Defendant Selfors is sued in his individual capacity and in his capacity as agent and manager of defendant American Kitchen Corporation.

6. Defendant Tyler Justin Sheets is a resident of Alamance County, North Carolina and the president of defendant American Kitchen Corporation. He helped devise and implement the business practices of defendant American Kitchen Corporation that are the basis for this action.

7. Defendant Sheets is sued in his individual capacity and in his capacity as agent and manager of defendant American Kitchen Corporation.

FACTUAL BACKGROUND

8. Until this past month, defendants offered kitchen remodeling services to North Carolina home owners.

9. It had been defendants' regular business practice to secure kitchen remodeling contracts with North Carolina home owners and collect substantial advance deposits, some as large as \$18,000 and \$19,000.

10. Defendants did not have kitchen remodeling crews on their staff. After securing the aforementioned contracts and collecting the large deposits from the home owners, defendants regularly hired subcontractors to perform the work.

11. After paying their own salaries and operating expenses, defendants did not have sufficient funds to pay their contractors and suppliers, except through the recruitment of more and more new customers and the collection of more advance deposits.

12. Defendants' business model was destined to fail because they would have to recruit an ever-increasing number of new customers and new deposits. At the point where the recruitment pace could not be sustained, new deposit-paying customers stood little chance of receiving their new kitchens or the return of their funds.

13. With respect to the unsustainable pace described in the preceding paragraph, defendants did reach such a point sometime in recent months.

14. In recent months defendants regularly failed to pay their subcontractors.

15. In recent months defendants regularly failed to pay their cabinet suppliers and other materialmen whose products were installed in the homes of defendants' customers.

16. Some of defendants' unpaid subcontractors and suppliers have threatened to file liens against the homes of defendants' customers, many of whom still have unfinished kitchen remodeling jobs.

17. Many other North Carolina home owners whose kitchen remodeling jobs never were started by defendants now have lost the substantial deposits they paid for work and products

promised to them by defendants.

18. To date, 32 North Carolina home owners have reported either losing money to defendants in the manner described above, having liens placed on their property for work that was performed by defendants' unpaid subcontractors, or both. Total losses being claimed by those home owners now stands at approximately \$400,000.

DEFENDANT SELFORS' KITCHEN CAROLINA BUSINESS 2008-2010

19. In the latter years of the last decade, defendant Selfors owned and managed a Burlington-based business named Kitchen Carolina. Defendant Sheets helped defendant Selfors manage that company. Kitchen Carolina operated on the same general business model as defendant American Kitchens, described above.

20. Just as defendant American Kitchen did recently, early in the year 2010 Kitchen Carolina went out of business. Kitchen Carolina left scores of North Carolina home owners with partially completed kitchen projects, kitchen projects that were never even commenced despite the fact that home owners had paid substantial deposits, and/or unpaid suppliers and subcontractors of Kitchen Carolina filing liens against the home owners' properties.

21. In addition to the problems described in the preceding paragraph, after it went out of business, defendant Selfors had Kitchen Carolina file collection actions against home owners throughout the state who were refusing to pay more money to the company for substandard work or for work that was yet to be completed or corrected.

22. Seventy-seven home owners filed complaints against Kitchen Carolina with the North Carolina Attorney General in 2009 and 2010. Those complaints alleged some or all of the problems set forth in the preceding two paragraphs.

KNOWING AND WILLFUL; IMPACT ON COMMERCE

23. Defendants' business practices and tactics described in paragraphs 8 through 18, above, were knowingly devised and carried out by defendants with full awareness of the problems those practices and tactics caused to customers of Kitchen Carolina in 2009 and 2010.

24. Defendants' above described business practices and tactics were in and affecting commerce in North Carolina and have had a substantial and negative impact thereon.

**CLAIM FOR RELIEF: VIOLATION OF THE UNFAIR AND DECEPTIVE
TRADE PRACTICES ACT, N.C. GEN. STAT. § 75-1.1, et seq.**

25. Plaintiff incorporates herein by reference paragraphs 1 through 24, above, and alleges further that defendants' above described acts, practices and omissions violated the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1, *et seq.* Because of those violations, plaintiff is entitled to the statutory relief prayed for below.

WHEREFORE, PLAINTIFF RESPECTFULLY PRAYS THE COURT for the following relief:

- a. That the Court enter a preliminary injunction under N.C. Gen. Stat. § 75-14 prohibiting defendants from offering home repair or home improvement services to property owners in North Carolina pending final adjudication of this cause;
- b. That the prohibitions in the above requested preliminary injunction be made permanent at the conclusion of this case, as further provided in N.C. Gen. Stat. § 75-14;
- c. That the Court require defendants to make restitution to their North Carolina home owner victims, as provided in N.C. Gen. Stat. § 75-15.1;
- d. That defendants be required to pay civil penalties to the State in the amount

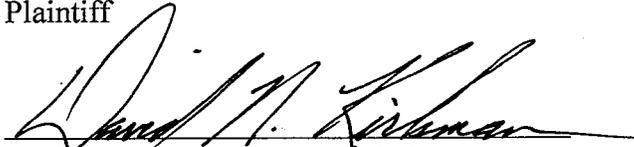
\$5000.00 for each violation of N.C. Gen. Stat. § 75-1.1 found by the Court, as provided in N.C. Gen. Stat. § 75-15.2;

- e. That defendants be ordered to reimburse plaintiff for the attorney costs associated with the investigation and prosecution of this action, as provided in N.C. Gen. Stat. § 75-16.1;
- f. That the costs of this action be taxed to defendants; and
- g. That plaintiff receive such other and further relief as the Court deems just and appropriate.

This the 11th day of July, 2014.

STATE OF NORTH CAROLINA, *ex rel.*
ROY COOPER, ATTORNEY GENERAL,
Plaintiff

By:


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