

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF ROANOKE

COMMONWEALTH OF VIRGINIA,
EX REL. MARK R. HERRING,
ATTORNEY GENERAL,

Plaintiff,

v.

TIMOTHY ONEAL WHITE,
an individual d/b/a White Renovation and Construction,
a/k/a White Renovations,

Defendant.

CIVIL ACTION NO. CL18-1080

Filed in the Clerk's Office this 1st day of May, 2018

Writ Tax	\$ <u>0-</u>	206 Fee	\$ <u> </u>
Fee	<u> </u>	426 Fee	<u> </u>
Ub Fee	<u> </u>	Teste:	
123 Fee	<u> </u>	BRENDA S. HAMILTON, CLERK	
106 Fee	<u> </u>	<i>Connie P. Lemackey</i> , DC	
170 Fee	<u> </u>		
147 Fee	<u> </u>		
Total Paid	\$ <u>0-</u>		

COMPLAINT

The Plaintiff, Commonwealth of Virginia, by, through, and at the relation of its Attorney General, Mark R. Herring (the "Plaintiff" or the "Commonwealth"), petitions this Court to declare that the activities in which the Defendant, Timothy Oneal White, individually and doing business as White Renovation and Construction, a/k/a White Renovations ("White" or the "Defendant") has engaged constitute violations of the Virginia Consumer Protection Act ("VCPA"), Virginia Code §§ 59.1-196 through 59.1-207, and Virginia Code § 54.1-1115(B)(i), which prohibits contracting without a license; to enjoin these violations; to restore to one consumer the sums acquired from him in violation of the VCPA; and to award civil penalties, expenses, and attorneys' fees to the Commonwealth. The Commonwealth prays that this Court grant the relief requested in this Complaint and states the following in support thereof:

JURISDICTION AND VENUE

1. The Commonwealth brings this action pursuant to the authority set forth in

§ 59.1-203 of the VCPA, which provides, among other things, that the Attorney General may bring an action to enjoin any violation of the VCPA. Section 54.1-1115(B)(i) provides that any violation of that subsection involving a consumer transaction is also a violation of the VCPA.

2. The Circuit Court for the City of Roanoke has authority to entertain this action and to grant the relief requested herein pursuant to Virginia Code §§ 8.01-620, 17.1-513, 59.1-203, 59.1-205, and 59.1-206.

3. Venue is permissible in this Court pursuant to Virginia Code § 8.01-262 (1), (3), and (4) because the Defendant resides and has his principal place of employment in the City of Roanoke, because there exists a practical nexus to the City of Roanoke including the location of fact witnesses and other evidence to the action, because the Defendant regularly conducts substantial business activity in the City of Roanoke, and because portions of the causes of action arose in the City of Roanoke. Venue is preferred in this Court pursuant to Virginia Code § 8.01-261(15)(c) because some or all of the acts to be enjoined are, or were, being done in the City of Roanoke.

4. In accordance with Virginia Code § 59.1-203(B), prior to commencement of this action, the Plaintiff gave the Defendant written notice that these proceedings were contemplated and a reasonable opportunity to appear before the Office of the Attorney General to demonstrate that no violations of the VCPA had occurred, or in the alternative, to execute an appropriate Assurance of Voluntary Compliance that is acceptable to the Commonwealth. The Defendant agreed to execute an Assurance of Voluntary Compliance, which is acceptable to the Commonwealth.

PARTIES

5. The Plaintiff is the Commonwealth of Virginia, by, through, and at the relation of

Mark R. Herring, Attorney General of Virginia.

6. The Defendant, Timothy Oneal White, is an individual who conducts business as a sole proprietorship under the names White Renovation and Construction and White Renovations. On information and belief, the Defendant currently resides at, and his contractor work is based out of, 410 Washington Avenue SW, Roanoke, Virginia 24016-4218. White Renovation and Construction and White Renovations are not incorporated or otherwise registered with the Virginia State Corporation Commission. White is not, and at all relevant times herein has not been, licensed as a contractor by the Virginia Department of Professional and Occupational Regulation Board for Contractors.

FACTS

7. White is an individual doing business under the names White Renovation and Construction and White Renovations who provides contractor services to individuals in their homes. White has provided contractor services under a contract for at least one job greater than \$1,000 in the City of Roanoke, with his Roanoke address listed on business documents including an estimate provided to the consumer.

8. At least one consumer hired White to do repairs and renovations, paid White payments as agreed, and did not receive the contracted for and promised services.

9. White entered into a contract with the consumer on June 16, 2015 for payments totaling \$6,600 to complete various renovations to the consumer's home bathroom including plumbing to make it accessible for persons with mobility issues.

10. White has never held a tradesmen license with a plumbing specialty as required by Virginia Code §§ 54.1-1128 and 54.1-1129.

11. White represented to the consumer that he held a valid contractor's license.

12. After the work commenced the consumer learned of various issues with the work completed by Mr. White, including installing tile too close to be grouted, failing to make the room water resistant, and failing to properly install backer board, none of which was disclosed by White.

13. On information and belief, the consumer made five payments totaling \$6,650 for the work including an additional payment for later agreed-to wall and floor repairs, and the work was never completed pursuant to the contract.

14. The consumer brought a civil action in the Roanoke City General District Court and obtained a judgment for \$7,400 plus \$58 in costs against White, but has not recovered any money from White.

15. White is not, and at the relevant times was not, licensed by the Virginia Department of Professional and Occupational Regulation Board for Contractors.

CAUSES OF ACTION

16. The Plaintiff re-alleges and incorporates herein by reference all matters set forth in Paragraphs 1 through 15 above.

17. The Defendant is now, and was at all relevant times mentioned herein, a "supplier" of "goods" or "services" in connection with "consumer transaction[s]" as those terms are defined in § 59.1-198 of the VCPA.

18. By advertising, selling, and offering for sale services as a contractor to consumers in their homes, the Defendant has engaged and does engage in "consumer transaction[s]," as defined in § 59.1-198 of the VCPA.

19. By undertaking to bid upon, accepting, and offering to accept a contract over \$1,000 for the construction, removal, repair, and improvement in a consumer's home, the

Defendant is a “contractor,” as defined in Virginia Code § 54.1-1100, requiring a Virginia contractor’s license under Virginia Code § 54.1-1103.

20. In undertaking work without a valid Virginia contractor’s license, failing to complete work as promised, and making various other misrepresentations and deceptions including by failing to disclose defects in work completed and representing that he was properly licensed, the Defendant has engaged in the following acts and practices, which are prohibited practices under the VCPA:

- a. Misrepresenting the source, sponsorship, approval, or certification of goods or services, in violation of § 59.1-200(A)(2);
- b. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits, in violation of § 59.1-200(A)(5);
- c. Advertising goods or services with intent not to sell them as advertised, or with the intent not to sell at the price or upon the terms advertised, in violation of § 59.1-200(A)(8);
- d. Using any deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction, in violation of § 59.1-200(A)(14); and
- e. Violating the provisions of Virginia Code § 54.1-1115(B)(i) by undertaking work without a valid Virginia contractor’s license or certificate when a license or certificate is required, in violation of § 59.1-200(A)(46).

20. Individual consumers have suffered losses as a result of the Defendant’s violations of § 59.1-200(A)(2), (5), (8), (14), and (46) of the VCPA.

21. The Defendant has willfully engaged in the acts and practices described in this

Complaint in violation of the VCPA.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, Commonwealth of Virginia, prays that this Court:

A. Permanently enjoin White from violating Virginia Code § 59.1-200(A)(2), (5), (8), (14), and (46) of the VCPA and Virginia Code § 54.1-1115(B)(i), pursuant to Virginia Code § 59.1-203;

B. Grant judgment against White and award to the Commonwealth all sums necessary to restore to any consumers the money or property acquired from them by White in connection with his violations of § 59.1-200(A)(2), (5), (8), (14), and (46) of the VCPA and Virginia Code § 54.1-1115(B)(i), pursuant to Virginia Code § 59.1-205;

C. Grant judgment against White and award to the Commonwealth civil penalties of up to \$2,500 per willful violation of § 59.1-200(A)(2), (5), (8), (14), and (46) of the VCPA and Virginia Code § 54.1-1115(B)(i), pursuant to Virginia Code § 59.1-206(A);

D. Grant judgment against White and award to the Commonwealth its costs, reasonable expenses incurred in investigating and preparing the case up to \$1,000.00 per violation of § 59.1-200(A)(2), (5), (8), (14), and (46) of the VCPA and Virginia Code § 54.1-1115(B)(i), and its attorneys' fees, pursuant to Virginia Code § 59.1-206(C); and

E. Order such other and further relief as may be deemed proper and just.

COMMONWEALTH OF VIRGINIA,
EX REL. MARK R. HERRING,
ATTORNEY GENERAL

By: 

Stephen John Sovinsky

Mark R. Herring
Attorney General

Cynthia E. Hudson
Chief Deputy Attorney General

Samuel T. Towell
Deputy Attorney General

Richard S. Schweiker, Jr.
Senior Assistant Attorney General and Chief

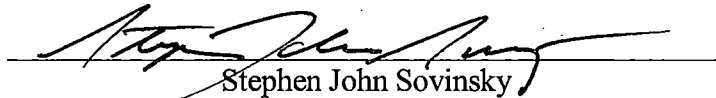
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CERTIFICATE OF SERVICE

I, Stephen John Sovinsky, certify that on April 30, 2018, a true copy of the foregoing Complaint was mailed via first class mail to Timothy Oneal White at 410 Washington Avenue SW, Roanoke, Virginia 24016-4218.


Stephen John Sovinsky