

FILED

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

2013 APR 26 AM 11:35

SUPERIOR COURT DIVISION

COUNTY OF WAKE

FILE NO. 12 CVS 008435

WAKE CO., C.S.C.
BY _____

STATE OF NORTH CAROLINA *ex rel.*)
 ROY COOPER, Attorney General,)
)
 Plaintiff,)
)
 v.)
)
 MCMILLIAN PROPERTIES, LLC,)
 BRADLEY MCMILLIAN, AND SHERRY)
 MCMILLIAN)
)
 Defendants.)

CONSENT JUDGMENT

This cause coming on to be heard and being heard before the undersigned Superior Court Judge in Wake County for entry of a Consent Judgment at the joint request of plaintiff State of North Carolina, by and through Attorney General Roy Cooper, and defendants Bradley McMillian, Sherry McMillian, and McMillian Properties, L.L.C., the Court, with the consent of plaintiff and defendants makes the following:

FINDINGS OF FACT

1. Plaintiff is the State of North Carolina acting through its Attorney General Roy Cooper pursuant to authority granted by Chapters 75 and 114 of the General Statutes.
2. Defendant McMillian Properties, LLC (MP) is a North Carolina limited liability company with a corporate office in Shannon, North Carolina. Defendant McMillian Properties was in the business of selling repossessed manufactured homes. Additionally, in some cases, McMillian Properties provided financing to some customers for their purchases.

3. Defendant Bradley McMillian is a resident of North Carolina and was the president and a manager of defendant MP. Along with defendant Sherry McMillian, defendant Bradley McMillian managed and controlled the business operations of defendant MP.

4. Defendant Sherry McMillian is a resident of North Carolina, served as the registered agent for defendant MP, and was licensed by the North Carolina Manufactured Housing Board (NCMHB) as a sales person for defendant MP. Defendant Sherry McMillian, along with defendant Bradley McMillian, managed and controlled the business operations of defendant MP.

5. The State alleges the following:

(a) Defendant MP was in the business of selling primarily repossessed manufactured homes. It was not licensed with the NCMHB until June 15, 2011, but Bradley and Sherry McMillian (hereinafter referred to as “the McMillian defendants”) operated defendant MP without a license shortly after incorporating it in February 2008;

(b) In addition to not being licensed with the NCMHB, the McMillian defendants did not secure a bond as required by N.C.G.S. § 143-143.12 or establish an escrow account as required by N.C.G.S. § 143-143.50. Their contracts did not include the cancellation notice required by N.C.G.S. § 143-143.21(b) nor did they comply with any of the other consumer protection provisions required in N.C.G.S. § 143-143.21;

(c) In most instances, when consumers contacted the McMillian defendants about the possible purchase of a manufactured home, they directed the consumers to select a home from pictures on the corporate website and did not give the consumers an opportunity to

personally inspect the homes themselves. The prices of the homes generally ranged from as low as about \$8,000 to \$25,000 with most being priced at \$15,000 or less;

(d) The pictures on the corporate website did not accurately reflect the current condition of the homes. For instance, the homes might have one or more of the following problems: (1) extensive structural damage, (2) issues with mold, (3) gaping holes in the floors or ceilings, (4) interior damage to walls, flooring, doors, and cabinets, and (5) missing appliances;

(e) The McMillian defendants sold the homes “as is” even though the consumers often did not have a chance to personally inspect the homes before paying for them;

(f) Consumers generally paid cash for the homes at the time they signed the sales contract and before the homes were to be delivered. If a consumer could not pay cash, the McMillian defendants would seller-finance the purchase;

(g) When consumers paid cash for the homes, the McMillian defendants did not always put this money into the escrow account required by N.C.G.S. § 143-143.50 or in any other manner hold these funds separate until they used these funds to purchase the specific home the consumer selected. When the McMillian defendants did place the money in an escrow account, the money was not held in escrow until the home was purchased but instead was used to pay other employees or to pay the salaries and personal bills of the McMillian defendants;

(h) In some cases, the homes the consumers purchased after viewing them online were virtually uninhabitable due to structural damage and mold. Defendants were unwilling to make repairs necessary for the home to be habitable. In some instances, the McMillian defendants promised to make repairs but did not make the repairs;

(i) When the consumer paid for the home in cash or signed a finance contract to purchase a home, the McMillian defendants usually gave consumers an estimated delivery date for the home. However, in many instances the McMillian defendants not only failed to provide the home on the estimated or requested delivery date but also failed to provide the home at all. Some consumers who ordered homes in 2011 have not received either their homes or a refund as requested;

(j) As a result of the McMillian defendants' failure to deliver the homes or provide refunds, several consumers experienced hardship such as having to pay additional rent on housing or move in with relatives after having paid the McMillian defendants in full for the home. Other consumers essentially found themselves homeless because they could not afford to pay rent after paying cash to the McMillian defendants; and

(k) As reflected in the spreadsheet attached to this Consent Judgment as Exhibit 1 and incorporated by reference, defendants collectively owe \$359,015.00 in restitution to consumers who (i) purchased manufactured homes from defendants, (ii) paid defendants either in part or in full for the home as well as moving and set up of the home, and (iii) either did not receive the home or received a home that was uninhabitable or not as represented at the time of sale.

6. Defendants' actions in connection with the practices set out above were in or affecting commerce in North Carolina.

7. Defendants neither admit nor deny the plaintiff's allegations in Paragraph 5 and do not object to the entry of this Consent Judgment, including a judgment in the amount of \$359,015.00 for restitution to consumers.

8. The McMillian defendants provided financial information to plaintiff. The McMillian defendants warrant that the financial information, including values, that they provided is true and accurate and fully and fairly reflects their financial condition as of the date reflected on the financial information.

CONCLUSIONS OF LAW

1. The court has jurisdiction over the parties and the subject matter.

2. Entry of this Judgment is just and proper.

3. The complaint states a cause of action against defendants pursuant to N.C.G.S. § 75-1.1 in connection with their marketing, sale, and financing of repossessed manufactured homes, and the Court finds good and sufficient cause to adopt the agreement of the parties and these findings of fact and conclusions of law as its determination of their respective rights and obligations and for the entry of this Consent Judgment.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. Defendants Bradley McMillian, Sherry McMillian, and MP are permanently enjoined from engaging, directly or indirectly, in:

- (a) marketing, selling, and financing manufactured or modular homes;
- (b) moving manufactured or modular homes;
- (c) setting up manufactured or modular homes; and
- (d) repairing or in any way improving manufactured or modular homes.

2. A judgment in the amount of \$359,015.00 is entered jointly and severally against defendants and in favor of plaintiff for restitution to consumers identified in Exhibit 1.

3. Defendants shall pay the North Carolina Department of Justice \$100,000 in civil penalties. Payment of the civil penalty is suspended as long as defendants are in full compliance with the terms of this Consent Judgment. If at any time defendants violate the terms of this Consent Judgment, this penalty shall be immediately due to the State from defendants jointly and severally.

4. This Consent Judgment shall not affect the rights of any private party to pursue any remedy or remedies allowed pursuant to the laws of the State of North Carolina.

5. This Consent Judgment Agreement shall not bind any other offices, boards, commissions, or agencies of the State of North Carolina.

IT IS FURTHER ORDERED THAT

6. If any part of the financial information or tax returns provided to plaintiff by the McMillian defendants is false, unfair, deceptive, misleading, or inaccurate in any material respect, plaintiff, in its sole discretion, may:

- (a) move the Court to impose sanctions;
- (b) move the court to rescind this Consent Judgment and proceed on its original complaint; and
- (c) seek any other remedy or relief afforded by law or equity.

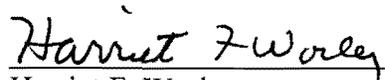
This the 26 day of April, 2013.



Superior Court Judge

WE CONSENT:

STATE OF NORTH CAROLINA
ex rel. ROY COOPER,
Attorney General



Harriet F. Worley
Special Deputy Attorney General



H. Gerald Beaver
Counsel for Defendants



Bradley M. McMillian



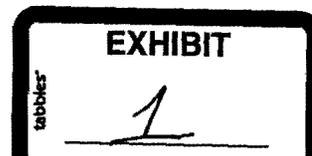
Sherry L. McMillian

McMillian Properties, L.L.C.



By: Bradley McMillian, Manager

First Name	Last Name	Address	City, State, Zip	Refund Due				
Carol	Anders	2406 Roberts Avenue	Lumberton, NC 28358	\$ 3,000.00				
Ricardo	Andrade-Govea	13 Arcadia Drive	Lumberton, NC 28360	\$ 10,500.00	*Received \$11,000 refund as of 4/17/13			
Phillip	Bethea	204 2nd Avenue	Marion, SC 29571	\$ 7,000.00				
Baltazar	Broca	3435 Marty Circle	Hope Mills, NC 28348	\$ 12,500.00				
Jo-Ronnica	Campbell	P O Box 382	Fairmont, NC 28340	\$ 15,900.00				
Loreno	Castro	107 Brison Sanders Road	Saint Pauls, NC 28384	\$ 11,000.00				
James	Caulder	12580 Hasty Road	Laurinburg, NC 28352	\$ 12,500.00				
Everton	Chavis	P O Box 86	Lumber Bridge, NC 28357	\$ 4,500.00				
William	Cooper	1759 McGirt Rd	Maxton, NC 28364	\$ 6,000.00				
Juan Pablo	Cruz Hernandez	227 Community Road	White Oak, NC 28399	\$ 17,225.00				
James Alvin	Davis, Jr	c/o Bridget Vann 941 King St	Burlington, NC 27217	\$ 25,000.00				
Belinda	Freeman	175 Freeman Drive	Maxton, NC 28364	\$ 8,000.00				
Winfred	Hammonds	171 Oakgrove Church Road	Lumberton, NC 28360	\$ 5,000.00				
April	Hernandez	938 Brisson Road	St Pauls, NC 28384	\$ 8,077.00				
Justine	Hernandez	8616 Old Red Springs Rd Lot 79	Red Springs, NC 28377	\$ 13,663.00				
Chloe	Hunt	2230 McPhail Rd Apt 5H	Lumberton, NC 28358	\$ 8,000.00				
Lamontrey	Inman	81 Foxtrot Lane	Elizabethtown, NC 28337	\$ 4,000.00				
Timothy	Jones	127 Verde Circle	St Pauls, NC 28384	\$ 12,500.00				
Floyd	Jones	4587 Mt. Tabor Road	Red Springs, NC 28377	\$ 4,200.00				
Tasha	King	275 Phillippi Church Road	Raeford, NC 28378	\$ 9,500.00				
Teresa	Locklear	492 Kever Road	Maxton, NC 28364	\$ 11,500.00				
Raul	Lopez-Reyes	507 Tommy Street	Biscoe, NC 27209	\$ 8,500.00				
Sherry	Lowry	1329 Rozier Sided Road	St Pauls, NC 28384	\$ 10,500.00				
Nathan	Manning	2465 Cardinal Drive	Homer, SC 29547	\$ 14,000.00				
Jaquetta	McCaskill	P O Box 289	Lumber Bridge, NC 28357	\$ 4,750.00				
Sheila	McClure	P O Box 382	Fairmont, NC 28340	\$ 13,500.00				
Monica	McNeill	1812 Robert Bessie Road	Lumberton, NC 28358	\$ 12,000.00				
Robert	Morris	3137 Bolivia Street	Fayetteville, NC 28306	\$ 14,700.00				
Anthony	Morton	P O Box 324	Lumber Bridge, NC 28357	\$ 9,000.00				
Reyna	Oliver	P O Box 23	Candor, NC 27229	\$ 13,000.00				
Elizabeth	Pinch	c/o Reginal Franklin 2407 Carolina Church Rd	Parkton, NC 28371	\$ 21,000.00				
Jessica	Poole	P O Box 3658	Lumberton, NC 28359	\$ 7,000.00				
Katiya	Robinson	24 Spring Branch Dr	Saint Pauls, NC 28384	\$ 6,000.00				
Laverne	Robinson	173 Brooklyn Circle	Hope Mills, NC 28348	\$ 8,500.00				
Karla	Rosas	P O Box 3077	Henderson, NC 27536	\$ 9,000.00				
Gabino	Soto-Abonza	11219 W NC Highway 97	Middlesex, NC 27577	\$ 14,000.00				
Stephen	Sullivan	2568 Union School Road	Rowland, NC 28383	\$ 5,000.00				
Nemorio	Velasquez	16221 Highway 71 North	Shannon, NC 28386	\$ 14,000.00				
				\$ 394,015.00				
			less \$35,000 Surety Bond paid					
			total restitution owed	\$ 359,015.00				

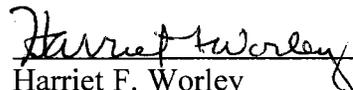


CERTIFICATE OF SERVICE

I do hereby certify that I have this day served the foregoing CONSENT JUDGMENT by depositing a copy in the U.S. Mail, first class postage prepaid, and addressed to:

H. Gerald Beaver, Esq.
Beaver, Holt, Sternlicht & Courie, P.A
230 Green Street
Fayetteville, NC 28301
Counsel for Defendants McMillian Properties, LLC, Bradley McMillian,
and Sherry McMillian

This the 26th day of April, 2013.



Harriet F. Worley
Special Deputy Attorney General
North Carolina Department of Justice
Consumer Protection Division