STATE OF NORTH CAROLINA

WAKE COUNTY

FILED

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IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
NO. 18 CVS 12726

STATE OF NORTH CAROLINA *ex rel.* JOSHUA H. STEIN, Attorney General,	)	
Plaintiff,	)	
v.	)	
SCOTT L. LACEY, individually, d/b/a SCOTTS TREE SERVICE; RANDY L. SHANNON JR., individually; STEPHEN J. LOMBARDI, individually; AMY R. LOMBARDI a/k/a AMY R. PAULK, individually; and GOLDBERG & DONOVAN, INC.,	)	**CONSENT JUDGMENT**
Defendants.	)	

THIS CAUSE came on to be heard and was heard before the undersigned Wake County Superior Court Judge for entry of a Consent Judgment between Plaintiff, STATE OF NORTH CAROLINA, by and through its Attorney General ("the State"), and Defendants SCOTT L. LACEY, individually, d/b/a SCOTTS TREE SERVICE, and RANDY L. SHANNON JR., individually (together "these Defendants"). The Court finds that the parties have resolved the matters in controversy between them and have agreed to the entry of this Consent Judgment by the Court without trial or adjudication of any issue of fact or law, and without finding or admission of wrongdoing or liability of any kind.

I. FINDINGS OF FACT

1.1 Plaintiff State of North Carolina is acting through its Attorney General, Joshua H. Stein, pursuant to authority granted in Chapters 75 and 114 of the North Carolina General Statutes to protect the public from unlawful business practices.

1.2 Defendant Scott L. Lacey resides at 500 Forrestwood Ave., West Jefferson, Ohio. He engages in the tree cutting and removal business and does business as Scotts Tree Service, with its principal place of business at 5404 Columbus Pike, Lewis Center, Ohio.

1.3 Defendant Randy Lee Shannon, Jr. resides at 11050 Fancher Rd., Lot 167, Westerville, Ohio. Defendant Shannon works for defendant Lacey and his tree business.

1.4 The State alleges that these Defendants engaged in trade and commerce affecting consumers in North Carolina within the meaning of N.C. Gen. Stat. § 75-1.1, which included: (1) charging and/or agreeing to charge for tree removal services a price that is unreasonably excessive under the circumstances during a state of emergency declared by the Governor of North Carolina, in violation of North Carolina's price gouging law, N.C. Gen. Stat. §§ 75-38; and (2) engaging in unfair or deceptive acts or practices in violation of N.C. Gen. Stat. § 75-1.1 *et seq*.

1.5 These Defendants deny the State's allegations in paragraph 1.4 but, in the interest of compliance and resolution of this matter, desire to resolve this controversy without further proceedings and are therefore willing to agree to the entry of this Consent Judgment.

II. CONCLUSIONS OF LAW

2.1 This Court has jurisdiction over the parties and the subject matter of this action.

2.2 Venue is proper in Wake County.

2.3 North Carolina's price gouging law, N.C. Gen. Stat. §§ 75-38, governs the alleged business practices of these Defendants that gave rise to this controversy.

2.4 The North Carolina Attorney General is the proper party to commence these proceedings under the authority of N.C. Gen. Stat. §§ 75-14 and -15, and by virtue of his statutory and common law authority to protect the interests of the citizens of the State of North Carolina.

2.5 This Consent Judgment shall be governed by the laws of the State of North Carolina.

2.6 Entry of this Consent Judgment is just and proper and in the public interest.

2.7 The State's Complaint states a cause of action against these Defendants upon which relief may be granted, and the Court finds good and sufficient cause to adopt this agreement of the parties and these findings of fact and conclusions of law as its determination of their respective rights and obligations and for entry of this Consent Judgment.

2.8 The parties have agreed to resolve their differences, and the agreement of the parties is just and reasonable with respect to all parties.

2.9 The Court approves the terms of the parties' agreement and adopts them as its own determination of the parties' respective rights and obligations.

III. GENERAL PROVISIONS

3.1 Other State Governmental Entities. This Consent Judgment shall not bind any other offices, boards, commissions, or agencies of the State of North Carolina, and nothing in this Consent Judgment shall in any way preclude any investigation or enforcement under any legal authority granted to the State for transactions not subject to this action.

3.2 Retention of Jurisdiction. The Court retains jurisdiction over this action to take any further action deemed necessary to enforce this Consent Judgment, including imposition of penalties, and to award the State judgments for any costs, including attorney's fees, it incurs in the event of noncompliance by any of these Defendants.

3.3 No Sanction of Business Practices. These Defendants shall not represent directly or indirectly or in any way whatsoever that the Court or the North Carolina Attorney General has sanctioned, condoned, or approved any part or aspect of these Defendants' business operations.

3.4 Release of Claims. This Consent Judgment shall fully resolve all legal claims and issues raised in the State's Complaint against these Defendants for their activities up to the date of this Consent Judgment.

3.5 No Admission of Violation of Law. This Consent Judgment shall not be construed as, or be evidence of, admissions by these Defendants, nor shall it be construed as a finding by this Court of any violation of North Carolina law, or any other law.

3.6 Private Right of Action. Nothing in this Consent Judgment shall be construed to affect any private right of action that a consumer, person, entity, or by any local, state, federal or other governmental entity, may hold against these Defendants.

3.7 Regulation of Other Conduct. Nothing in this Consent Judgment is intended to relieve Defendants of their responsibility to comply with all applicable North Carolina laws.

3.8 Representations Regarding Scope of Conduct. The State's entry into this Consent Judgment is premised on these Defendants' representations that (1) all of the tree removal and related services jobs they, or anyone acting under their direction or control, performed in North Carolina following September 7, 2018, are listed in the document titled "North Carolina Customer List," ("Customer List"), which was provided to the State by these Defendants pursuant to the temporary restraining order issued in this case, and (2) the only payments they have received, by the date of this judgment, for tree removal work and related services performed in North Carolina after September 7, 2018, are those payments listed on the Customer List.

If it is discovered that one or both of the above-described representations are false, the State will be entitled to seek appropriate remedies from the Court, including but not limited to restitution, disgorgement, civil penalties, attorneys' fees, and any other relief allowed by law, in relation to any tree removal and related services Defendants provided in North Carolina after September 7, 2018 not listed on the Customer List.

IV. PERMANENT INJUNCTIVE RELIEF

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

4.1 These Defendants and their businesses, officers, agents, servants, employees, successors, assigns, attorneys, and any others acting in concert or under the actual direction or control of these Defendants, are hereby permanently restrained and enjoined, pursuant to N.C. Gen. Stat. § 75-14, from engaging in acts and practices prohibited by North Carolina's Unfair and Deceptive Trade Practices Act, found at N.C. Gen. Stat. §§ 75-1.1 *et seq*.

4.2 These Defendants are specifically enjoined from:

4.2.1 charging or agreeing to charge for tree removal services a price that is unreasonably excessive under the circumstances during a state of emergency or abnormal market disruption declared by the Governor of North Carolina, in violation of North Carolina's price gouging law, N.C. Gen. Stat. § 75-38;

4.2.2 advertising, offering, soliciting, or entering into contracts, or receiving payment for any tree or bush trimming or removal services, debris removal, or storm damage recovery or restoration services in North Carolina after the date of this judgment;

4.2.3 performing or providing any tree or bush trimming or removal services, debris removal, or storm damage recovery or restoration services in North Carolina after the date of this judgment;

4.2.4 seeking, obtaining, or receiving payment, or cashing a check already received, from any consumer or the consumer's insurer for tree removal or debris cleanup work done at the following properties:

(a) 4418 North college Rd., Castle Hayne, NC (Garman)

(b) 3608 Bent Tree Ct., Wilmington, NC (Worrell)

(c) 311 Battleground Ave., New Bern, NC (Bailey)

(d) 1011 Neuse Ave., New Bern, NC (Tripp)

(e) 4301 Maidstone Dr., Wilmington, NC (Souther)

(f) 4701 Salix Dr., Wilmington, NC (Lee)

(g) 6209 Dominion Dr., Wilmington, NC (Brown)

(h) 515 Green Acres Dr., Hampstead, NC (Saavedra)

(i) 15215 US Hwy 17 N, Hampstead, NC (Fussell)

(j) 2949 Country Club Dr., Hampstead, NC (Belanger)

(k) 2333 Shirley Rd., Wilmington, NC (Clemens)

(l) 313 Wayne Dr., Wilmington, NC (Varnum)

(m) 906 River Reach Ct, New Bern, NC (Thomas)

(n) 155 Circle Dr., Hampstead, NC (Richardson)

(o) 5244 Marina Club Dr., Wilmington, NC (Glancy)

4.2.5 for any job not specified in paragraph 4.2.4, seeking, obtaining, or receiving payment, or cashing a check already received, from any consumer, for tree

removal or debris cleanup work done in North Carolina after September 7, 2018 an amount exceeding what the consumer's insurer actually paid or pays for these Defendants' work;

4.2.6 failing to provide a price quote to a consumer in connection with obtaining the consumer's agreement to perform tree or bush trimming or removal;

4.2.7 inducing a consumer to sign a paper that lists the work to be done, but which does not include the price for such work;

4.2.8 sending an invoice to a consumer or insurer with a price not agreed to by the consumer;

4.2.9 engaging in, or directing any person, firm, or corporation, including a debt collections agency, to engage in, collection activities for a claimed debt that was the product of price gouging and/or deception; and

4.2.10 failing to provide a three-day right to cancel notice as required by N.C. Gen. Stat. §14-401.13 and 16 CFR 429, or to obtain a waiver of this right to cancel when allowed by law.

V. MONETARY RELIEF

IT IS FURTHER ORDERED that:

5.1 Civil Penalty. These Defendants shall pay the sum of $10,000.00 to the Attorney General as civil penalties.

5.2 Restitution. These Defendants shall pay the sum of $400.00 to the Attorney General as consumer restitution for Martin Souther.

5.3 Other Monetary Relief. These Defendants shall pay the sum of $9,600.00 to the Attorney General to be used for attorney fees, investigative costs, consumer protection enforcement, other consumer protection or restitution purposes, and other purposes allowed by law, at the discretion of the Attorney General.

5.4 Method and Timing of Payments. These Defendants shall pay the above sums to the Attorney General via cashier's checks or other certified funds made payable to the "North Carolina Department of Justice" on or before the date this Consent Judgment is executed.

SO ORDERED, this the 9 day of SEPTEMBER, 2019.

Hon. ANDREW HEATH

SUPERIOR COURT JUDGE

THE UNDERSIGNED PARTIES HEREBY CONSENT TO THE TERMS AND CONDITIONS OF THIS CONSENT JUDGMENT AS SET FORTH ABOVE, AND HEREBY CONSENT TO ENTRY THEREOF:

PLAINTIFF:

STATE OF NORTH CAROLINA,
ex rel. JOSHUA H. STEIN,
Attorney General

K. D. Sturgis
Special Deputy Attorney General

Date: 9/4/2019

Daniel T. Wilkes
Assistant Attorney General

Date: 9/4/19

DEFENDANTS:

Scott L. Lacey

Date: 8/28/19

Randy L. Shannon, Jr.

Date: 8/28/19

Caitlin Poe, Esq.
WILLIAMS MULLEN
Counsel for Defendants Scott L. Lacey
And Randy L. Shannon, Jr.

Date: 9/4/19

CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of the foregoing **CONSENT JUDGMENT** by electronic mail pursuant to agreement by the parties at the email address below:

Caitlin M. Poe
Williams Mullen P.C.
cpoe@williamsmullen.com
Counsel for Scott L. Lacey and Randy L. Shannon, Jr.

This the 9th day of September, 2019.

Daniel T. Wilkes
Assistant Attorney General

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