

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
FILED SUPERIOR COURT DIVISION
NO. 18 CVS 11690

2020 FEB 11 P 1:09

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

WAKE COUNTY, C.S.C.

Plaintiff,

BY

CONSENT JUDGMENT

v.

STERLING PAINT & BODY, LLC,
COLLISION WAREHOUSE, LLC, STERLING
LEONARD GABRIEL, Individually, and
NICHOLE SHARIE GABRIEL, Individually,

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, ("Plaintiff" or "State") and Defendants Sterling Paint & Body, LLC ("SPB"), Collision Warehouse, LLC ("CW"), Sterling Leonard Gabriel, and Nichole Sharie Gabriel (collectively "Defendants"). Defendants are represented by counsel, James T. Johnson of the law firm Dement Askew & Johnson, LLC. The Court finds that the parties have resolved the matters in controversy between them and have agreed to the entry of this Consent Judgment ("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 consumer public from unlawful business practices.

1.2 At all times material and relevant to this action, Defendant SPB was a North Carolina limited liability corporation with its principal place of business located at 4000 Sam Wilson Road, Charlotte, NC 28214.

1.3 At all times material and relevant to this action, Defendant CW was a North Carolina limited liability corporation with its principal place of business located at 4000 Sam Wilson Road, Charlotte, NC 28214.

1.4 Defendant Sterling Gabriel is an adult individual and, at all times material and relevant to this action, has been an owner and operator of SPB and CW. Defendant Sterling Gabriel is a resident of Union County.

1.5 Defendant Nichole Gabriel is an adult individual and, at all times material and relevant to this action, has been an owner and operator of SPB and CW. Defendant Nichole Gabriel is a resident of Union County.

1.6 At all times relevant to this action, Defendants operated a motor vehicle repair and restoration business within North Carolina through a regular practice of advertising to and directly soliciting consumers, of contracting with such consumers by which Defendants agreed to complete repair and restoration services, of performing such services, and of collecting payment for such services, all within North Carolina.

1.7 The State alleges that Defendants engaged in trade and commerce affecting consumers within the meaning of N.C. Gen. Stat. § 75-1.1, which included the following:

- a. misrepresenting to consumers, or otherwise implying, that Defendants have a relationship with or authorization from the consumer's or an involved party's insurance company;
- b. misrepresenting the nature of documents presented to consumers for signature;

- c. misrepresenting, explicitly or by implication, that an insurance company has or will approve a rental car during a repair, when such is not the case or Defendants do not know whether such is the case;
- d. starting or continuing work on a vehicle when repair authorization has not been granted or has otherwise been rescinded, in violation of the North Carolina Motor Vehicle Repair Act at N.C. Gen. Stat. §§ 20-354.3(a), 20-354.4(a), 20-354.5(a), and 20-354.8(1) and (12);
- e. charging for repairs that were not expressly or impliedly authorized by the consumer in violation of N.C. Gen. Stat. §§ 20-354.5(c) and 20-354.8(1);
- f. charging for repairs that were not performed;
- g. doing unnecessary repairs on vehicles;
- h. charging an undisclosed storage fee; and
- i. charging an undisclosed insurance processing fee when no insurance paperwork has been processed by Defendants.

1.8 Defendants deny all of the State's allegations in paragraph 1.7 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 Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1, *et seq.*, governs the alleged business practices of Defendants and 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 Plaintiff's Complaint states a cause of action against 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 the Defendants.

3.3 No Sanction of Business Practices. 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 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 Defendants for their activities up to the date of this Consent Judgment.

3.5 Joint and Several Liability. Defendants shall be jointly and severally liable for all amounts that are due and owed under this Consent Judgment.

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

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.

IV. PERMANENT INJUNCTIVE RELIEF

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

4.1 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 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.*, from engaging in acts and practices prohibited by the North Carolina Motor Vehicle Repair Act, found at N.C. Gen. Stat. §§ 20-354 *et seq.* (as such laws currently exist or may be amended in the future), and specifically permanently restrained and enjoined from:

- a. misrepresenting to consumers, or otherwise implying, that Defendants have a relationship with or authorization from the consumer's or an involved party's insurance company;
- b. misrepresenting the nature of documents presented to consumers for signature;
- c. misrepresenting, explicitly or by implication, that an insurance company has or will approve a rental car during a repair, when such is not the case or Defendants do not know whether such is the case;
- d. starting or continuing work on a vehicle when repair authorization has not been granted or has otherwise been rescinded, in violation of the North Carolina Motor Vehicle Repair Act at N.C. Gen. Stat. §§ 20-354.3(a), 20-354.4(a), 20-354.5(a), and 20-354.8(1) and (12);
- e. charging for repairs that were not expressly or impliedly authorized by the consumer in violation of N.C. Gen. Stat. §§ 20-354.5(c) and 20-354.8(1);
- f. charging for repairs that were not performed;
- g. doing unnecessary repairs on vehicles;
- h. charging an undisclosed storage fee; and
- i. charging an undisclosed insurance processing fee when no insurance paperwork has been processed by Defendants.

4.2 Commencing on date of entry hereof, and continuing for a period of three consecutive years thereafter, 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 Defendants, shall be specifically restrained and enjoined from the following, pursuant to N.C. Gen. Stat. § 75-14:

- a. engaging in the ownership, operation, or management of a motor vehicle (as “motor vehicle” is defined by N.C.G.S. § 20-4.01 (23)) repair, rebuilding, or restoration business in North Carolina;
- b. advertising, offering, soliciting, entering into contracts, or receiving payment for the performance of motor vehicle repair, rebuilding, or restoration services in North Carolina; and
- c. performing or providing motor vehicle repair, rebuilding, or restoration services in North Carolina.

Notwithstanding the foregoing, Defendants shall have until and including February 17, 2020 to wind down their business operations at all motor vehicle repair, rebuilding, or restoration businesses owned by them in North Carolina.

IT IS FURTHER ORDERED that:

4.3. The foregoing shall not prohibit Defendants Sterling Gabriel and Nichole Gabriel (the “Gabriels”) from being employed by an individual or business that provides motor vehicle repair, rebuilding, or restoration services in North Carolina, as long as the Gabriels: have no ownership interest in the business; do not manage or control any aspect of the business or its finances unless they themselves are supervised by the senior management or owners of the business; and are compensated by the business as a W-2 employee. Upon such employment, the Gabriels shall provide written notice to the Consumer Protection Division of the name and address of their employer and direct supervisor as well as a description of their expected duties of employment.

V. MONETARY RELIEF

IT IS FURTHER ORDERED that:

5.1 Consumer Restitution. On or before February 6, 2020, Defendants shall pay the sum of Eighteen Thousand Five Hundred Sixty-Four Dollars and Thirty-Five Cents (\$18,564.35) to the Attorney General as consumer restitution, to be distributed by the Attorney General to consumers who submitted complaints to the Attorney General in accordance with the attached Exhibit A. Any unclaimed portion of this amount will be used for the purposes specified in paragraph 5.2 immediately below.

5.2 Other Monetary Relief. Within ninety (90) days after entry of this Consent Judgment, Defendants shall pay the sum of Fifty Thousand Dollars (\$50,000) to the Attorney General to be used for attorney fees, investigative costs, consumer education, consumer restitution, enforcement, and/or other consumer protection purposes allowed by law, at the discretion of the Attorney General.

5.3 Method of Payments. 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."

SO ORDERED, this the 11th day of February, 2020 at 1:00 o'clock p. .m.



SUPERIOR COURT JUDGE

CONSENTS FOLLOW ON NEXT PAGE

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

Date: 2/10/2020

By: Torrey Dixon
Torrey Dixon
Assistant Attorney General
N.C. State Bar No. 36176
N.C. Department of Justice
Consumer Protection Division
114 W. Edenton Street
Raleigh, NC 27603
Phone: (919) 716-6000
tdixon@ncdoj.gov

DEFENDANTS:

Date: 2/10/20

By: Sterling Leonard Gabriel
Sterling Leonard Gabriel,
Individually and in his capacity as a
Member and Manager of
Sterling Paint & Body, LLC and
Collision Warehouse, LLC

Date: 2/10/20

By: Nicole Sharie Gabriel
Nicole Sharie Gabriel,
Individually and in her capacity as a
Member and Manager of
Sterling Paint & Body, LLC and
Collision Warehouse, LLC

COUNSEL FOR DEFENDANTS:

Date: 2/10/2020

BY: James T. Johnson
James T. Johnson
Dement, Askew, & Johnson, L.L.P.
333 Fayetteville Street, Suite 1513
Post Office Box 711
Raleigh, NC 27602

Consent Judgment Exhibit A

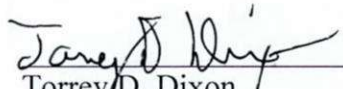
State of NC v. Sterling Paint & Body, LLC et. al. Restitution Totals	
NAME	RESTITUTION
E. Gonzalez	\$1636.88
C. Sutherland	\$750.00
J. Vasquez	\$2524.94
W. Carter	\$1140.02
J. Wilkins	\$430.00
E. Ford	\$990.00
L. Jones	\$3693.71
C. Sparkman	\$138.50
A. Davis	\$890.00
J. Stewart	\$555.36
B. Loftin	\$850.00
S. Ahlmark	\$4,399.94
K. Fonville	\$565
TOTAL	\$18,564.35

CERTIFICATE OF SERVICE

I hereby certify that on this date I have served the foregoing CONSENT JUDGMENT, by depositing a copy of the same in the U.S. Mail, first-class postage prepaid, and addressed as follows:

James Johnson
DeMent, Askew, and Johnson LLP
333 Fayetteville St. #1513
Raleigh, NC 27601

This the 11th day of February, 2020.


Torrey D. Dixon
Assistant Attorney General