

STATE OF NORTH CAROLINA
WAKE COUNTY

FILED IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 20 CVS 6602

2020 JUL 22 PM 3:20

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

Plaintiff,

v.

JH HOME IMPROVEMENTS, INC.;
JORGE ALBERTO GARCIA and
HELEN SMITH FLORES, individually
and in their capacity as owners, managers,
and/or operators of JH HOME
IMPROVEMENTS, INC.,

Defendants

**PRELIMINARY INJUNCTION
BY CONSENT AS TO
DEFENDANT HELEN SMITH FLORES**

THIS MATTER came before the undersigned Judge of the Wake County Superior Court upon Plaintiff the State of North Carolina's Motion for Preliminary Injunction under N.C. Gen. Stat. § 75-14 (the "Motion"), which is scheduled for a continued, virtual hearing on July 21, 2020 at 11:45 a.m. The Court, having reviewed the record in this cause, and the undersigned parties having made joint application for and stipulated to entry of a Preliminary Injunction, finds that good cause exists for entry of a Preliminary Injunction, as set forth below. The Court further finds for purposes of this Order that:

1. Plaintiff alleges that Defendants Helen Smith Flores ("Flores") and Jorge Alberto Garcia ("Garcia") are operating a residential contracting scheme through Defendant JH Home Improvements, Inc. ("JH Home") and are knowingly and intentionally engaged in a pattern and practice that includes, *inter alia*: taking substantial deposits from elderly consumers for home repairs and home improvements; pressuring these consumers to agree to work that is unnecessary; lying to consumers about the nature of their payments; grossly overcharging for materials and

labor; repeatedly not finishing projects but continuing to take on new work from other consumers; failing to provide consumers with appropriate refunds for unfinished projects; and operating without a general contractor's license.

2. Plaintiff alleges that Flores's specific role in this contracting scheme includes, *inter alia*, knowingly and intentionally: (a) deceiving consumers as to the status of their payments, including whether a check has been posted; (b) deceiving consumers about the refund of monies; (c) facilitating contact between the consumer and Garcia during Garcia's present incarceration; (d) attempting to drum up business while Garcia is incarcerated; and (e) serving as a designated payee for the business, including depositing consumers' payments into her personal accounts.

3. Assistant Attorney General Munashe Magarira and Special Deputy Attorney General Stuart M. Saunders represent Plaintiff in this matter.

4. Attorney Manuel L. Costa is representing Flores for the limited purpose of advising Flores as to the entry of this Consent Preliminary Injunction and effectuating the execution and entry of this Consent Preliminary Injunction.

5. JH Home and Garcia were served with the summons and complaint on June 12, 2020, while Flores was served with the same on June 13, 2020.

6. On June 24, 2020, the Honorable A. Graham Shirley, after conducting a hearing on June 23, 2020 in Wake County Superior Court, entered an Amended Temporary Restraining Order ("Amended TRO") in this matter. The Amended TRO prohibits Defendants JH Home, Garcia, and Flores (collectively, the "Defendants") from, *inter alia*, advertising, offering, soliciting, or entering into contracts or agreements with consumers for contractor work, requesting payment from consumers for any contractor services or materials, accepting payment from consumers for any

contractor services or materials, and contacting any of their prior or existing customers for any reason.

7. On July 6, 2020, Plaintiff, through its counsel, appeared before the Honorable Rebecca W. Holt to be heard on Plaintiff's Motion for Preliminary Injunction. Defendants were duly notified in writing of the hearing. After the hearing began, Flores appeared in the Office of the Wake County Superior Court Clerk, citing extenuating circumstances for her inability to participate in the hearing at that time. Accordingly, Judge Holt issued an Order Continuing Hearing and Extending the Amended Temporary Restraining Order. Pursuant to this Order, the hearing was continued to July 15, 2020 at 2:30 p.m. via Webex.

8. On July 14, 2020, the Honorable G. Bryan Collins issued a Second Order Continuing Hearing and Extending the Amended Temporary Restraining Order. Pursuant to this Order, the hearing on Plaintiff's Motion for Preliminary Injunction has been continued to July 21, 2020 at 11:45 a.m. via Webex (or until further order of the Court), to allow the Court to confirm Defendants' current, valid email addresses and ensure the presence of a Spanish interpreter for the hearing. Defendants were duly notified in writing that Plaintiff's motion for a Preliminary Injunction against them would be taken up by the Court at this date and time.

9. Plaintiff State of North Carolina, acting through its Attorney General, is authorized to bring this action against Flores and seek injunctive relief on behalf of the State and aggrieved consumers, pursuant to N.C. Gen. Stat. §§ 75-1.1, 75-14, and Rule 65 of the North Carolina Rules of Civil Procedure.

10. The Court has both subject matter jurisdiction and personal jurisdiction over Flores.

11. Plaintiff has made a sufficient showing that Flores has engaged in a continuing pattern of unfair and deceptive trade practices in connection with the alleged residential contracting scheme.

12. Plaintiff has also made a sufficient showing that the public has suffered and will continue to suffer injury, and that the public interest will be adversely affected, unless Flores is restrained from engaging in illegal and deceptive practices, as alleged.

IT IS THEREFORE ORDERED that, pending final adjudication of this action in the trial court, Defendant Helen Smith Flores, together with her employees, agents, representatives, successors, and assigns, and any others acting in concert with her who have knowledge thereof, be and hereby is Preliminary Enjoined from:

- (a) Engaging in unfair or deceptive acts or practices in violation of N.C. Gen. Stat. § 75-1.1, including but not limited to the acts and practices listed in Paragraph 63 of Plaintiff's Complaint;
- (b) Advertising, offering, soliciting, or entering into contracts or agreements with consumers for contractor work, including requesting payment from consumers for any contractor services or materials;
- (c) Accepting payment from consumers for any contractor services or materials;
- (d) Contacting any of Defendants' prior or existing customers for any reason, including soliciting work and/or requesting monies from customers;
- (e) Destroying, transferring, concealing, or altering or removing from Defendants' possession or control any financial records, customer contracts, e-mails, text messages or other correspondence, business records, and other documents of Defendants; and

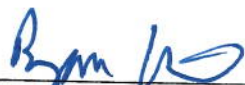
- (f) Transferring, withdrawing, concealing, disposing, or encumbering any of the Defendants' assets without permission of the Court; provided, however, the Court's permission shall not be required if Plaintiff agrees in writing to Defendant Flores' transferal, withdrawal, concealment, disposal, or encumbrance of these assets.

IT IS FURTHER ORDERED that Defendant Flores be required to produce the following records no later than seven (7) days after the continued, July 21 preliminary injunction hearing:

- (1) The name and address of every bank at which Defendant Flores maintains and has maintained for the past twelve (12) months checking, deposit, or other bank accounts, and the account number for each such account;
- (2) A statement of the current monetary balance in each such account held by Defendant Flores, together with a copy of the most recent bank statements for each such account, and bank statements for the past twelve (12) months for each such account;
- (3) A financial statement showing Defendant Flores' current assets and liabilities; and
- (4) A breakdown of Defendant Flores' accounts, if such accounts are segregated, showing what the accounts are for, e.g., whether the accounts are for payment of rent, payroll, or the like.

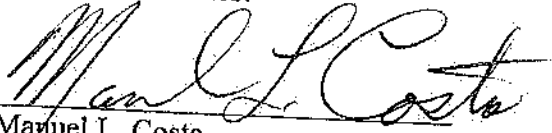
IT IS FURTHER ORDERED that nothing herein relieves Defendants Garcia and JH Home from their continued requirement to comply with both the Second Extension Order and the Amended TRO as set forth therein.

SO ORDERED, this the 21st day of July, 2020 at 2:15 p.m.



Hon. G. Bryan Collier, Jr.
Superior Court Judge

Consented and agreed to by Defendant
Helen Smith Flores:



Manuel L. Costa
Attorney for Defendant Helen Smith Flores

7/20/20
Date

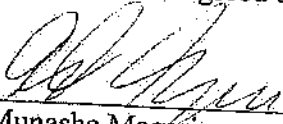
Consented and agreed to by Defendant
Helen Smith Flores:



Helen Smith Flores

7/20/2020
Date

Consented and agreed to by Plaintiff:



Munashe Magarira
Assistant Attorney General

07/21/20
Date