

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

WAKE COUNTY

FILED

FILE NO. 20 CVS 6602

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

2020 JUL 22 P 12:19

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
AS TO DEFENDANTS JH HOME
IMPROVEMENTS, INC. AND
JORGE ALBERTO GARCIA**

THIS MATTER came to be heard and was heard via Webex video-conferencing by the undersigned Judge presiding over the July 21, 2020 civil session of Wake County Superior Court upon Plaintiff State of North Carolina's application for preliminary injunction under N.C. Gen. Stat. § 75-14. Assistant Attorney General Munashe Magarira and Special Deputy Attorney General appeared on plaintiff's behalf at the appointed time for the hearing. A Preliminary Injunction by Consent as to Defendant Helen Smith Flores has been entered that, pending final adjudication of this action, enjoins her from engaging in unfair or deceptive acts or practices in violation of N.C. Gen. Stat. § 75-1.1, among other things.

The Court, having heard the arguments of counsel, and having reviewed the pleadings, affidavits, and other exhibits filed in substantiation thereof, finds that good cause exists for entry of a Preliminary Injunction pursuant to N.C. Gen. Stat. § 75-14, as set forth below, which enjoins Defendants JH Home Improvements, Inc. and Jorge Alberto Garcia from acts and conduct in violation of N.C. Gen. Stat. § 75-1.1. The Court further finds for purposes of this order that:

1. Plaintiff alleges that Defendants Flores and Garcia are operating a residential contracting scheme through Defendant 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. 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.

3. 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 prohibited 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.

4. 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.

5. 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 was 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.

6. Plaintiff State of North Carolina, acting through its Attorney General, is authorized to bring this action against Defendants JH Home and Garcia 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.

7. The Court has both subject matter jurisdiction and personal jurisdiction over Defendants JH Home and Garcia.

8. Plaintiff has made a sufficient showing that JH Home and Garcia have engaged in a continuing pattern of unfair and deceptive trade practices in connection with the alleged residential contracting scheme.

9. 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 Defendants JH Home and Garcia are 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, Defendants JH Home Improvements, Inc. and Jorge Alberto Garcia, together with their

employees, agents, representatives, successors, and assigns, and any others acting in concert with them who have knowledge thereof, be and hereby are 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 Defendants JH Home and Garcia's transferal, withdrawal, concealment, disposal, or encumbrance of these assets.

IT IS FURTHER ORDERED that Defendants JH Home and Garcia 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 Defendants maintain and have 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 Defendants, 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 Defendants' current assets and liabilities;
- (4) A breakdown of Defendants' 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; and
- (5) A list containing the names and contact information (mailing address, phone number(s), and email address) of all the customers for whom Defendants have provided contracting services between January 1, 2016 and the present.

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



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