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STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
WAKE CO., C.S.C. SUPERIOR COURT DIVISION
WAKE COUNTY NO. 19 CV 4835

BY _____

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

Plaintiff,)

v.)

CONSENT JUDGMENT

JUSTIN L. HARTMANN, Individually, and)
CANARY DATE SCULPTING INC. d/b/a)
Canary Tree Service,)

Defendants.)

THIS CAUSE came on to be heard and was heard before the undersigned Wake County Superior Court Judge for entry of a Final Judgment by Consent between Plaintiff, STATE OF NORTH CAROLINA, by and through its Attorney General ("the State"), and JUSTIN L. HARTMANN, individually, and CANARY DATE SCULPTING INC. doing business as Canary Tree Service ("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 Justin L. Hartmann resides at 631 Hampton Downs Court, Saint Johns, Florida. Hartmann at all times relevant to this matter was President, owner, and a managing agent of defendant Canary Date Sculpting, Inc.

1.3 Defendant Canary Date Sculpting Inc. is a Florida corporation, with its principal place of business at 440 Honeycomb Way, Jacksonville, Florida. Defendant Canary Date Sculpting, Inc. does business as "Canary Tree Service."

1.4 The State alleges that 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.

1.5 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 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. 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 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.

3.6 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 any local, state, federal or other governmental entity, may hold against 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 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, were disclosed in the chart with the file name of "NC_Jobs List w.PmtJobContact.Details.pdf" provided by Defendants to the State on May 28, 2018, pursuant to the temporary restraining order issued in this case; and (2) the only payments Defendants 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 above-noted chart.

If it is discovered that any 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 above-reference chart.

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.*

4.2 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, specifically from:

4.2.1 charging or agreeing to charge for tree removal and related 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 failing to provide a written price quote, inclusive of all costs, to a consumer before entering into an agreement to do the work; and

4.2.3 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.

4.3 Pursuant to N.C. Gen. Stat. § 75-15.1, all express, implied, or constructive contracts, between Defendants, their agents, employees, and corporate successors or assigns, and any person acting in concert with them, and the owners (or their property manager or insurers) of the properties set forth in **Exhibit 1** to this Consent Judgment are cancelled.


V. MONETARY RELIEF

IT IS FURTHER ORDERED that:

5.1 Restitution. Defendants shall pay the sum of \$38,750.00 to the Attorney General as consumer restitution to be paid by the Attorney General to each consumer identified in **Exhibit 1**. Defendants shall pay the above sum to the Attorney General via cashier's check or other certified funds made payable to the "North Carolina Department of Justice" on or before 5:00 p.m., February 11, 2022.

5.2 Civil Penalty. Defendants shall pay the sum of \$15,000.00 to the Attorney General as civil penalties. The State's collection of the \$15,000.00 is suspended during the time of Defendants' full compliance with the Consent Judgment. If, at any time, Defendants violate the terms of this Consent Judgment, this penalty shall be immediately due to the State.

SO ORDERED, this the 14th day of January, 2022.


Hon. G. Byron Collins, Jr.

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



Keith Clayton
Special Deputy Attorney General

Date: 01/13/22

DEFENDANTS:



Defendant Justin L. Hartmann, individually


Date: 01-12-22



AS PRESIDENT

Defendant Canary Date Sculpting Inc.
d/b/a Canary Tree Service
Title: _____

Date: 01-12-22



Caitlin M. Poe
WILLIAMS MULLEN
Attorney for defendants

Date: Jan 13, 2022

Exhibit 1 to Consent Judgment in State v. Hartmann

\$14,000.00 – 2208 Masons Point Pl., Wilmington, NC (Dixon)

\$3,250.00 – 2221 Masons Point Pl., Wilmington, NC (Trafford)

\$7,500.00 – 1110 Windsor Dr., Wilmington, NC (Willetts)

\$5,000.00 – 511 Sagewood Dr., Wilmington, NC (Romano)

\$4,500.00 – 503 Sagewood Dr., Wilmington, NC (Heuer)

\$4,500.00 – 84 Sourwood Cove, Hampstead, NC (Griffith)