

CONSUMER PROTECTION DIVISION
OFFICE OF THE ATTORNEY GENERAL
STATE OF MARYLAND
200 St. Paul Place, 16th Floor
Baltimore, Maryland 21202,

Proponent,

v.

OPTIMUM CONSTRUCTION, INC.
17620 Redland Road
Derwood, Maryland 20855,

and

AMR ELRAHIMY
17620 Redland Road
Derwood, Maryland 20855,

Respondents.

IN THE
CONSUMER PROTECTION
DIVISION
OFFICE OF THE
ATTORNEY GENERAL

CPD Case No.: 23-024-372030
OAH No.:

Office of the Attorney General
Consumer Protection Division
FILED
NOV 15 2023
ADMINISTRATIVE HEARING PROCESS

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STATEMENT OF CHARGES

1. The Consumer Protection Division of the Office of the Attorney General institutes this proceeding to enjoin Respondents Amr Elrahimy and Optimum Construction, Inc. (collectively “Respondents”) from engaging in unfair and deceptive trade practices in the course of offering and selling consumer goods and services, and to obtain relief for consumers harmed by these unfair and deceptive trade practices.

2. Respondents offered and sold home improvement goods and services, but failed to commence or complete the promised work, failed to use consumer payments for the project for which they were given, and used contract forms that lacked required disclosures. When confronted by consumers, the Respondents ignored the consumers’ requests to either provide the

promised services or refund their payments. Failing to deliver promised goods or services, failing to return refunds owed to consumers, and using illegal contract forms, are all unfair and deceptive trade practices that violate the Maryland Consumer Protection Act, Md. Code Ann., Com. Law §§ 13-101 through 13-501 (“CPA”). Respondents also sell their home improvement goods and services to consumers in the consumers’ homes, but fail to provide consumers with any of the cancellation notices and rights required by the Door-to-Door Sales Act (Md. Code Ann., Com. Law §§ 14-301 through 14-306), which also violates the Consumer Protection Act.

PARTIES

3. The Proponent in this proceeding is the Consumer Protection Division of the Office of the Attorney General of Maryland (the “Division”). This proceeding is brought by the Division to redress past violations and to prevent future violations of Maryland’s Consumer Protection Act and Maryland’s Door-to-Door Sales Act.

4. Respondent Optimum Construction, Inc. (“Optimum Construction”) is a Maryland corporation that offers and sells home improvement goods and services to consumers. Respondent Optimum Construction’s principal place of business is 17620 Redland Road, Derwood, Maryland, 20855.

5. Respondent Amr Elrahimy (“Elrahimy”) is the owner of Optimum Construction. As the owner of Optimum Construction, Respondent Elrahimy possessed and exercised the authority to control the policies and trade practices of Respondent Optimum Construction; participated in the alleged unfair or deceptive trade practices that are described herein; and knew or should have known of the unfair or deceptive trade practices that are described herein and had the power to stop them, but rather than stopping them, promoted their use.

STATEMENT OF FACTS

6. Respondents offer and sell to consumers home improvement goods and/or services, which are consumer goods or services, the purpose of which is to alter, convert, improve, modernize, remodel, repair, or replace any part of a residential dwelling.

7. Respondents offer and sell their home improvement goods and services for more than \$25, and sales occur outside of the Respondents' usual place of business and inside of consumers' homes, which make the sales door-to-door transactions.

8. Respondents entered into contracts with consumers promising to perform home improvement services and supply home improvement goods, including repairing or remodeling kitchens, bathrooms, basements, and patios and performing various other improvements to consumers' homes.

9. From on or about December 31, 2020, until at least February 20, 2023, Respondents, after collecting deposits from consumers, either never commenced providing the promised home improvement goods and services or commenced providing the promised work and goods but abandoned the projects prior to completion.

10. Consumers attempted to contact Respondents to request that Respondents complete the agreed-upon work or refund their payments, but to no avail. Respondents either provided consumers with false excuses for the failure to perform or they entirely ignored consumers' emails, calls, and texts. Additionally, when Respondents promised a refund, they failed to pay the promised refund.

11. Respondents have collected millions of dollars in deposits and advanced payments that were unlawfully taken from consumers for work that was never performed by the Respondents, causing substantial financial and other harm to consumers.

12. The contract forms that home improvement contractors use in Maryland are regulated by the Maryland Home Improvement Commission (“MHIC”). To the extent any contract for a home improvement is entered into with a Maryland consumer, the contract must comply with the requirements set forth by the MHIC.

13. Respondents represented, expressly or impliedly, to consumers that the contract forms they used to offer and sell home improvement goods and services complied with Maryland law, when in fact they did not. The contracts Respondents provided to, and entered into with, consumers violated Md. Code Ann., Bus. Reg. § 8-501 and the Maryland Door-To-Door Sales Act.

14. Respondents utilized contract forms that failed to include disclosures that are required for home improvement contracts by Md. Code Ann., Bus. Reg. § 8-501, including the name and license number of each salesperson who solicited or sold the home improvement, as required by § 8-501(c)(ii), and the approximate dates when the performance of the home improvement contract would begin and when the work would be substantially completed, as required by § 8-501(c) (iii).

15. The Maryland Door-To-Door Sales Act provides consumers, when buying home improvement goods and services inside of their homes, the right to cancel their purchase within five business days, or in the case of consumers who are 65 years or older, within seven business days. Md. Code Ann., Com. Law §§ 14-302 and 14-302.1.

16. Persons, such as the Respondent, who sell home improvement goods and services door-to-door, are required to notify consumers of their cancellation rights in three ways. First, Respondents are required to orally inform consumers of their right to cancel their contracts. *Id.* at § 14-302(5). Second, Respondents are required to include a statement in their contracts, in

boldfaced 10-point font, in proximity to the consumer's signature space in the contract, in substantially the following form: "You, the buyer, may cancel this transaction at any time prior to midnight of the fifth/seventh business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right." *Id.* at §§14-302(1)(ii) and 14-402.1(1). Third, Respondents are required to provide consumers with a separate "Notice of Cancellation" form, that is not part of the home improvement contract, which may be used to cancel their contracts on the fifth or seventh business day after the date they enter into their home improvement contracts. *Id.* at §§14-302(2) and 14-402.1(2).

17. Respondents violated the Door-to-Door Sales Act when they sold consumers home improvement goods and services with a purchase price that exceeded \$25 in consumers' homes and failed to orally disclose their cancellation rights and/or failed to provide consumers with the statutorily-required Notice of Cancellation. Md. Code Ann., Com. Law § 14-302(11).

18. Before beginning work, Respondents collected deposits from consumers that totaled thousands of dollars without informing consumers that Respondents had incomplete or unstarted projects and did not have the capacity and/or intention to complete the projects for which they were collecting deposits.

19. Respondents represented, expressly or impliedly, to consumers that the Respondents would use that consumer's money, including deposits and advanced payments, for that consumer's project and promised work. In fact, Respondents did not apply those funds for the consumer's project and promised work.

20. On March 28, 2022, judgment was entered in Montgomery County Circuit Court against Optimum Construction, Inc. in the amount of \$108,282.00 to a consumer for the company failing to complete a home improvement project and Optimum Construction, Inc. has

had an account garnishment against it since at least May 6, 2022. Nonetheless, Respondents continued to sell new home improvement projects and to collect deposits on home improvement projects after that date without disclosing the judgment, garnishment, and failure to complete at least one home improvement project.

21. On November 7, 2022, Respondents sent a letter to the contracted consumers stating that the business was “forced to shut down 90% of [their] jobsite operations” and could not “sustain remaining in business and completing our open construction projects within the agreed upon scheduled times.” Nonetheless, Respondents continued to enter into contracts for home improvement projects after that date and represented, expressly or impliedly, that they had the capacity to do the work, but omitted to tell consumers about the judgment and garnishment, their inability to complete their current projects, and that they had recently issued shutdown notices.

22. The substantial misrepresentation of how consumer money would be used and the Respondents’ operating capacity, and the false promises to complete projects, likely influenced, persuaded, or induced consumers to enter into home improvement contracts and pay deposits, violating § 8-607 of the Maryland Home Improvement Law.

23. Respondents’ failure to disclose to prospective clients (a) their previously-abandoned projects and inability to meet schedules, (b) their inability and/or unwillingness to provide the promised home improvement goods and services, (c) that they would not use the consumer’s money for the consumer’s project, and (d) their inability or refusal to pay refunds, are material facts that, if known to consumers, would likely impact consumers’ decision regarding whether to hire Respondents. Respondents’ failure to disclose these facts deceived consumers.

24. Respondents' false and misleading representations to consumers, both implicit and explicit, regarding the legality of their contracts, the company's financial status, their willingness or ability to provide home improvement goods and services, the progression of the promised home improvement project, how consumers' payments would be used, and refunds of consumers' payments had the capacity, tendency, or effect of misleading consumers and, in fact, have misled consumers.

25. Respondents' omissions of material facts regarding the legality of their contracts, the company's financial status, their willingness or ability to provide home improvement goods and services, the progression of the promised home improvement projects, how consumers' payments would be used, and that they would not fulfill their promises to refund consumers' payments received or tended to deceive consumers.

26. Respondents' misrepresentations and omissions of material facts, their use of contracts that did not comply the law, their inability or unwillingness to provide promised home improvement goods and services, their collection of deposits without committing to project schedules, their failure to apply consumer deposits to the consumers' own projects, and their refusal to provide promised refunds to consumers caused substantial injuries to consumers both financially and by depriving them of their payments and the full use and enjoyment of their property. These injuries could not have been reasonably avoided by consumers and did not benefit competition.

COUNT I - VIOLATIONS OF THE CONSUMER PROTECTION ACT

27. The Division incorporates paragraphs 1 through 26 as if they were fully alleged herein.

28. Respondents' practices, as set forth above, constitute unfair and deceptive trade practices in the sale and offer for sale of consumer goods and services that violate the Consumer Protection Act.

29. The home improvement goods and services that Respondents offered and sold to consumers are consumer goods and consumer services pursuant to § 13-101(d)(1) of the CPA because they are used for personal, family, or household purposes.

30. Respondents functioned as merchants as defined by § 13-101(g)(1) of the CPA.

31. Respondents engaged in unfair and deceptive trade practices in connection with the offer or sale of consumer goods and services that are generally prohibited by § 13-303(1) and (2) of the CPA.

Deceptive Trade Practices

32. Respondents' false and misleading statements, as set forth above, had the capacity, tendency, or effect of deceiving or misleading consumers, and are deceptive trade practices prohibited by § 13-303 of the CPA, as defined in § 13-301(1) of the CPA.

33. As set forth above, the Respondents' omissions of material facts and misrepresentations deceived or tended to deceive consumers and are therefore deceptive trade practices prohibited by § 13-303 of the CPA, as defined in § 13-301(3) of the CPA.

34. As set forth above, the Respondents have violated the Door-To-Door-Sales Act, which violations are unfair or deceptive trade practices prohibited by § 13-303 of the CPA, as defined by § 13-301(14)(iv).

Unfair Trade Practices

35. Respondents engaged in unfair trade practices in their offer and sale of home improvement goods and services to consumers in violation of § 13-303 of the CPA.

36. Respondents' practice of collecting deposits but failing to provide promised home improvement goods and services, failing to use the deposits for the consumer's project, and failing to provide refunds has caused substantial injury to consumers.

37. Consumers who purchased Respondents' goods and services could not have known that Respondents would take their payments, not provide the promised goods and services, not use the payments for their projects and not provide refunds and, therefore, could not reasonably avoid their injuries.

38. The injuries that consumers have suffered as a result of Respondents' actions are not offset by any benefit to consumers and are unfair trade practices that violate § 13-303 of the CPA.

COUNT II - VIOLATIONS OF THE DOOR-TO-DOOR SALES ACT

39. The Division incorporates paragraphs 1 through 38 as if they were fully alleged herein.

40. Respondents' actions show that when engaging in new consumer contracts, Respondents had no intention of completing construction projects and using consumer payments for the specific purpose for which the money was given when soliciting sales of goods and services and collecting large deposits. Therefore, Respondents misrepresented their true purpose of inducing payments when making the sales and orders of home improvement services, violating §§ 14-302(11) of the Door-to-Door Sales Act.

41. Respondents' failure to provide consumers with the required "Notice of Cancellation" violated §§ 14-302(2) and 14-402.1(2) of the Door-to-Door Sales Act.

42. Each violation of the Door-to-Door Sales Act stated above is also an unfair or deceptive trade practice prohibited by the CPA, pursuant to § 14-302 of the Door-to-Door Sales Act.

CLAIM FOR RELIEF

WHEREFORE, the Proponent respectfully requests that the Consumer Protection Division issue an Order:

1. requiring the Respondents to cease and desist from engaging in unfair or deceptive trade practices in violation of the CPA;
2. requiring the Respondents to take affirmative action, including paying restitution of all moneys Respondents collected for goods and services in connection with unfair or deceptive practices;
3. requiring the Respondents to pay the costs of this proceeding, including the costs of investigation;
4. requiring Respondents to pay a suitable civil penalty of \$10,000 per violation pursuant to § 13-410 of the CPA; and
5. granting such other and further relief as is appropriate and necessary.

Respectfully submitted,



Parker J. Schnell; Bar No.: 2302060008
Karen Valentine; Bar No.: 9212170227
410-576-6789
pschnell@oag.state.md.us
Assistant Attorneys General
Consumer Protection Division
200 St. Paul Place, 16th Floor
Baltimore, MD 21202
Attorneys for Proponent