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Division of Consumer Affairs

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

**IN THE MATTER OF AN INVESTIGATION
BY THE NEW JERSEY DIVISION OF
CONSUMER AFFAIRS**

of

A-1 PRIDE PAINTING, L. L. C.

Respondent(s)

Administrative Action
No. Z0800020

**FINAL ORDER
AFTER REVIEW
OF SUBMISSION**

This matter was opened by the Division of Consumer Affairs, Office of Consumer Protection ("Consumer Affairs" or the "Division"), as an investigation of whether the advertising of A-1 Pride Painting, L.L.C. (the "Respondent") violated the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (the "CFA"), the Contractors' Registration Act, N.J.S.A. 56:8-136 et seq. (the "Registration Act"), and the Home Improvement Contractor Registration Regulations, N.J.A.C. 13:45A-17.1 et seq. (the "Registration Regulations"). That investigation disclosed that:

Pursuant to N.J.S.A. 56:8-138, no person shall offer to perform, or engage, or attempt to engage in the business of making or selling home improvements unless registered with the Division as a contractor;

Pursuant to N.J.S.A. 56:8-151 and/or N.J.A.C. 13:45A -16.2(a)12, a home improvement contract for a purchase price in excess of \$500.00 shall:

- Include the "Notice to Consumer," as required by N.J.S.A. 56:8-151.b;
- Be in writing and signed by all parties (N.J.A.C. 13:45A-16.2(a) 12);
- Include the total price or other consideration to be paid by the buyer, including all finance charges. If the contract is one for time and materials, the hourly rate for labor and all other terms and conditions of the contract affecting price shall be clearly stated (N.J.A.C. 13:45A-16.2(a)12iii); and

- Include the dates or time period on or within which the work is to begin and be completed by the seller (N.J.A.C. 13:45A-16.2(a)12iv).

Pursuant to N.J.S.A. 56:8-146(a), this conduct constitutes a violation of the CFA. As such, pursuant to N.J.S.A. 56:8-3.1, the Director may: 1) assess penalties against the Respondent, pursuant to N.J.S.A. 56:8-13; 2) direct Respondent to take certain remedial actions, including payment of costs to the State, pursuant to N.J.S.A. 56:8-11; and 3) order the Respondent to cease and desist from engaging in unlawful activity, pursuant to N.J.S.A. 56:8-18.

A Notice of Violation was served upon Respondent on March 12, 2008, setting forth the findings of fact and conclusions of law above. Respondent was offered the opportunity to be heard on these charges. Respondent expressly declined to contest the charges and waived any right to a hearing in this matter. Respondent, however, did request that the Division consider mitigating circumstances before rendering its final decision. On September 2008, by way of written submission Respondent asked the Division to consider certain mitigation circumstances before rendering a final decision. Specifically, the Division has reviewed the following: a letter along with U.S. Individual Income Tax Return and Loss or Profit ending 2005, 2006 and bank statements from January 1, 2008 through July 31, 2008 and has been persuaded to modify the terms as set forth in the Notice of Violation.

Accordingly, IT IS on this 25th day of Nov., 2008 ORDERED:

1. Respondent shall cease and desist from advertising, offering to perform, engaging in or attempting to engage in the making or selling of home improvements, on residential property, unless and until Respondent is registered with the Division pursuant to the Registration Act and the Registration Regulations.

2. Respondent shall pay the Division of Consumer Affairs the sum of \$3,500 as a civil penalty pursuant to N.J.S.A. 56:8-13. The amount due and owing totals \$3,500. "This sum shall be paid as follows:

- a. An initial payment of three hundred and fifty dollars (\$350.00) shall be made on December 1, 2008. The remaining balance of three thousand one hundred and fifty

dollars (\$3,150) shall be paid in nine equal monthly installments of three hundred and fifty dollars (\$350), the additional installments will be due on January 1, 2008 and continuing on the first day of the month every month thereafter through and including September 1, 2009.

- b. Payments for penalties shall be made by certified check, attorney trust account check or other guaranteed funds made payable to the "New Jersey Division of Consumer Affairs" and shall be delivered to the following address:

Attention: Supervisor Diana Petrella
Case Management Tracking
New Jersey Department of Law and Public Safety
Division of Consumer Affairs
124 Halsey Street
P.O. Box 45025
Newark, New Jersey 07101

3. Service of this Final Order will be deemed effective if sent by certified mail to the last known mailing address of Respondent's business.

4. Failure to pay any penalties within the time allowed will result in the filing of a certificate of debt. Any subsequent violation of this Order may subject Respondent to additional penalties of up to \$25,000 penalty pursuant to N.J.S.A. 56:8-18.

5. This Order constitutes a final agency action and shall be effective upon filing and is a public document subject to the New Jersey Open Public Records Act.

DIVISION OF CONSUMER AFFAIRS

BY: 

David Szuchman, Director

New Jersey Division of Consumer Affairs