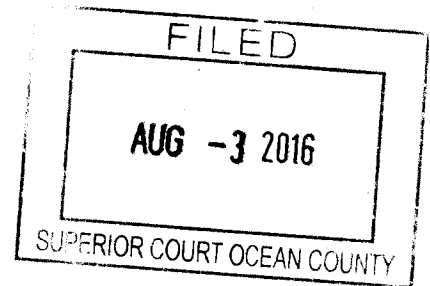


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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, OCEAN COUNTY
DOCKET NO. _____ -C- _____

C 181-16

CHRISTOPHER S. PORRINO, Attorney General of the
State of New Jersey, and STEVE C. LEE, Director of the
New Jersey Division of Consumer Affairs,

Plaintiffs,

v.

RAYNE CONSTRUCTION MANAGEMENT
SERVICES, LLC; COLMYER AND SONS
CONSTRUCTION, LLC; TIFFANY A. CIMINO,
individually and t/a J. Colmyer & Sons, and as owner,
officer, director, founder, member, manager, employee,
servant, agent, and/or representative of RAYNE
CONSTRUCTION MANAGEMENT SERVICES, LLC,
AND COLMYER AND SONS CONSTRUCTION,
LLC; JEFFREY COLMYER, individually and as owner,
officer, director, shareholder, founder, member, manager,
employee, servant, agent, representative and/or
independent contractor of RAYNE CONSTRUCTION
MANAGEMENT SERVICES, LLC AND COLMYER
AND SONS CONSTRUCTION, LLC; JANE AND
JOHN DOES 1-20 individually and as owners, officers,
directors, founders, members, managers, employees,
servants, agents, representatives and/or independent
contractors of RAYNE CONSTRUCTION
MANAGEMENT SERVICES, LLC AND COLMYER
AND SONS CONSTRUCTION, LLC, and XYZ
CORPORATIONS 1-20,

Defendants.

Civil Action

COMPLAINT

Plaintiffs Christopher S. Porrino, Attorney General of the State of New Jersey (“Attorney General”), with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey, and Steve C. Lee, Director of the New Jersey Division of Consumer Affairs (“Director”), with offices located at 124 Halsey Street, Seventh Floor, Newark, New Jersey, by way of Complaint state:

PRELIMINARY STATEMENT

1. In the wake of the devastation caused by Superstorm Sandy, it became necessary for homeowners across the State, to repair and/or elevate their existing homes to protect them from future storms. For those homes too damaged to be saved, new homes had to be constructed. The Reconstruction, Rehabilitation, Elevation and Mitigation (“RREM”) Program was established by the New Jersey Department of Community Affairs (“DCA”) to provide grants to homeowners for, among other things, home elevation and new home construction.

2. At all relevant times, defendants Rayne Construction Management Services, LLC, Colmyer and Sons Construction, LLC, Jeffrey Colmyer, and Tiffany A. Cimino (collectively, “Defendants”) were engaged in the advertisement, offer for sale, sale and performance of various home improvements, home elevation services, and new home construction (“Construction Services”) in the State of New Jersey (“State” or “New Jersey”). Defendants were among the contractors approved by the RREM Program for use by grant recipients.

3. To date, the New Jersey Division of Consumer Affairs (“Division”) has received thirty-six (36) consumer complaints regarding Defendants’ Construction Services. The complaints have revealed multiple violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (“CFA”), the Contractors’ Registration Act, N.J.S.A. 56:8-136 et seq., and the regulations promulgated thereunder, specifically, the Regulations Governing Contractor Registration, N.J.A.C. 13:45A-17.1 et seq. (“Contractor Registration Regulations”), the Regulations Governing Home

Elevation Contractors, N.J.A.C. 13:45A-17A.1 et seq. (“Home Elevation Regulations”), the Regulations Governing Home Improvement Practices, N.J.A.C. 13:45A-16.1 et seq. (“Home Improvement Regulations”), and the Regulations Governing General Advertising, N.J.A.C. 13:45A-9.1 et seq. (“Advertising Regulations”). Among other things, these alleged violations arise from Defendants’ failure to: (a) include required information in or with home improvement contracts (e.g., a description of the principal products and materials to be used or installed and the terms and conditions affecting price, including the hourly rate for labor); (b) perform the contracted for Construction Services after receipt of RREM Program funds and/or other consumer payments; (c) make the necessary repairs to correct substandard home improvement work; and (d) maintain the required liability insurance and home improvement contractor and/or new home elevation registration with the Division. The Attorney General and the Director commence this action to halt Defendants’ deceptive business practices and to obtain consumer restitution and other monetary relief.

PARTIES AND JURISDICTION

4. The Attorney General is charged with the responsibility of enforcing the CFA, the Contractors’ Registration Act, and the regulations promulgated thereunder, specifically the Contractor Registration Regulations, the Home Elevation Regulations, the Home Improvement Regulations and the Advertising Regulations. The Director is charged with the responsibility of administering the CFA, the Contractors’ Registration Act, the Contractor Registration Regulations, the Home Elevation Regulations, the Home Improvement Regulations, and the Advertising Regulations.

5. By this action, the Attorney General and Director (collectively, “Plaintiffs”) seek injunctive relief and other relief for violations of the CFA, the Contractors’ Registration Act, the

Contractor Registration Regulations, the Home Elevation Regulations, the Home Improvement Regulations, and the Advertising Regulations. Plaintiffs bring this action pursuant to their authority under the CFA, specifically N.J.S.A. 56:8-8, 56:8-11, 56:8-13 and 56:8-19.

6. Venue is proper in Ocean County, pursuant to R. 4:3-2, because it is a county in which the Defendants have maintained a business address and otherwise conducted business.

7. On or about June 23, 2008, J. Colmyer & Sons was registered as a trade name by Tiffany A. Cimino ("T. Cimino"). T. Cimino t/a J. Colmyer & Sons initially maintained a business and mailing address at 121 Zelus Street, Little Egg Harbor, New Jersey 08087. Subsequently, T. Cimino t/a J. Colmyer & Sons maintained a business and mailing address at 916 Wild Oaks Court, Little Egg Harbor, New Jersey 08087. Upon information and belief, this trade name is no longer in use by T. Cimino.

8. On or about January 24, 2013, Colmyer and Sons Construction, LLC ("Colmyer and Sons") was established as a New Jersey limited liability company. At all relevant times, Colmyer and Sons maintained a principal business and mailing address at 960 Radio Road, Little Egg Harbor, New Jersey 08087.

9. Colmyer and Sons' registered agent in the State is T. Cimino with a mailing address of 960 Radio Road, Little Egg Harbor, New Jersey 08087.

10. At all relevant times, T. Cimino has been the managing member of Colmyer and Sons, as well as an owner, officer, director, founder, manager, employee, servant, agent, and/or representative of Colmyer and Sons and has controlled, directed and/or participated in the management and operation of Colmyer and Sons.

11. At all relevant times, Jeffrey Colmyer ("J. Colmyer") has been an owner, officer, director, founder, member, manager, employee, servant, agent, representative and/or independent

contractor of Colmyer and Sons and has controlled, directed and/or participated in the management and operation of Colmyer and Sons.

12. Upon information and belief, T. Cimino and J. Colmyer are married.

13. On or about May 10, 2013, Rayne Construction Management Services, LLC ("Rayne Construction") was established as a New Jersey limited liability company. At all relevant times, Rayne Construction has maintained a business and mailing address of 960 Radio Road, Little Egg Harbor, New Jersey 08087.

14. Rayne Construction's registered agent in the State is T. Cimino with a mailing address of 960 Radio Road, Little Egg Harbor, New Jersey 08087.

15. T. Cimino and J. Colmyer are listed as members on the Certificate of Formation for Rayne Construction.

16. At all relevant times, T. Cimino has been the managing member of Rayne Construction, as well as an owner, officer, director, founder, manager, employee, servant, agent and/or representative of Rayne Construction and has controlled, directed and/or participated in the management and operation of Rayne Construction.

17. At all relevant times, J. Colmyer has been a member of Rayne Construction, as well as an owner, officer, director, founder, manager, employee, servant, agent, representative and/or independent contractor of Rayne Construction and has controlled, directed and/or participated in the management and operation of Rayne Construction.

18. John and Jane Does 1 through 20 are fictitious individuals meant to represent the owners, officers, directors, shareholders, founders, members, managers, agents, servants, employees, representatives and/or independent contractors of Rayne Construction and Colmyer and Sons who

have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

19. XYZ Corporations 1 through 20 are fictitious corporations meant to represent any additional business entities who have been involved in the conduct that gives rise to the Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

GENERAL ALLEGATIONS COMMON TO ALL COUNTS

20. At all relevant times, Rayne Construction and Colmyer and Sons were designated as approved contractors for home elevation and new home construction with the RREM Program.

21. Since at least December 2008, defendants T. Cimino t/a J. Colmyer & Sons and J. Colmyer have been engaged in the advertisement, offering for sale, sale and performance of home improvements in the State.

22. Since at least July 2013, Defendants have been engaged in the advertisement, offering for sale, sale and performance of home improvements in the State.

23. Since at least July 2013, defendants Colmyer and Sons, T. Cimino and J. Colmyer (collectively, the "Colmyer Defendants") have been engaged in the advertisement, offering for sale, sale and performance of new home construction in the State.

24. Since at least November 2014, defendants Rayne Construction, T. Cimino and J. Colmyer (collectively, the "Rayne Defendants") have been engaged in the advertisement, offering for sale, sale and performance of home elevations in the State.

A. RREM Program:

25. The RREM Program, administered by DCA, consists of \$1.1 billion in federal funding provided through Community Disaster Block Grant Disaster Recovery funds allocated to

New Jersey by the U.S. Department of Housing and Urban Development, to help eligible New Jersey homeowners repair or rebuild their Superstorm Sandy-damaged homes.

26. The RREM Program provides grants to homeowners with an income of \$250,000.00 or less, for activities necessary to restore their storm-damaged primary residences, including reconstruction, rehabilitation, elevation and/or other mitigation activities.

27. The RREM Program is open to homeowners whose primary residence is located in one of nine counties (Atlantic, Bergen, Cape May, Essex, Hudson, Middlesex, Monmouth, Ocean or Union) and whose homes suffered a loss of at least \$8,000.00 or one foot of water on the first floor, as verified by the Federal Emergency Management Agency ("FEMA") or its affiliates.

28. The RREM Program is intended to function as a bridge between the total cost of repairs and other funding the homeowner has received to repair or rebuild his/her home. The calculation of the RREM grant takes into consideration the cost of the repair or rebuilding and funds the homeowner has received from other sources, such as insurance, FEMA, and non-profit organizations. The RREM Program grant may not exceed \$150,000.00.

29. The RREM Program Pathway B ("Pathway B") is a program that allows eligible homeowners to select their own general contractor to repair or rebuild their home. The general contractor must be licensed and/or registered with the State, and compliant with all State and Federal regulations applicable to the RREM Program.

30. To date, the Division has identified twenty-six (26) consumers who contracted with Defendants as RREM Program Pathway B Homeowners. These consumers received \$2,824,770.47 in RREM funds for renovations, new home construction and/or home elevations, which were not performed in whole or in part. Out of that amount, \$1,498,749.89 in RREM funds were paid to

Defendants. The identified RREM consumers as well as the RREM funds each paid to Defendants is as follows:

Last Name	Amt. of RREM disbursed to consumer	RREM funds paid to Defendants	Restitution Amt. to Date	Contracted-For Work
Allen	\$83,143.87	\$66,000.00	\$66,000.00	Renovation
Anastasi	\$150,000.00	\$74,149.04	\$20,000.00	Renovation
Banasiak	\$85,534.37	\$85,534.37	\$133,127.00	Demo/New Home /Elevation
Brocken	\$86,702.91	\$77,400.00	\$77,400.00	Renovation/Elevation
Buchbinder	\$150,000.00	\$11,400.00	\$11,400.00	Renovation/Elevation
Chmielewski	\$107,861.39	\$40,000.00	\$36,500.00	Demo/New Home/Elevation
Damiano	\$91,068.26	\$65,000.00	\$16,025.00	Renovation/Elevation
Evans	\$81,638.00	\$40,000.00	\$40,000.00	Renovation/Elevation
Fannon	\$150,000.00	\$93,000.00	\$50,120.00	Renovation/Elevation
Foster	\$150,000.00	\$43,000.00	\$20,000.00	Demo/New Home/Elevation
Graczyk	\$135,000.00	\$50,000.00	\$0.00	Renovation/Elevation
Griffin	\$76,655.01	\$55,000.00	\$54,200.00	Renovation/Elevation
Hampton	\$150,000.00	\$60,000.00	\$49,000.00	Demo/New Home/Elevation
Honovic	\$150,000.00	\$64,400.00	\$64,400.00	Renovation/Elevation
Kain	\$87,627.28	\$30,000.00	\$30,000.00	Renovation/Elevation
Lanni	\$94,392.07	\$73,392.00	\$73,392.00	Renovation/Elevation
Mihalko	\$94,300.00	\$40,000.00	\$40,000.00	Renovation/Elevation
Mollico	\$135,166.07	\$135,166.07	\$78,000.00	Renovation/Elevation
O'Connor	\$67,762.41	\$67,762.41	\$64,500.00	Renovation
O'Toole	\$150,000.00	\$105,000.00	\$0.00	Renovation/Elevation
Prell	\$100,000.00	\$40,000.00	\$40,000.00	Renovation/Elevation
Robertozzi	\$93,765.00	\$27,125.00	\$27,125.00	Renovation/Elevation
Rosetti	\$89,437.09	\$78,000.00	\$62,100.00	Renovation/Elevation

Last Name	Amt. of RREM disbursed to consumer	RREM funds paid to Defendants	Restitution Amt. to Date	Contracted-For Work
Sharken	\$97,594.12	\$41,500.00	\$40,700.00	Renovation/Elevation
Sheak	\$112,849.88	\$23,000.00	\$23,000.00	Renovation
Steimle	\$54,272.74	\$52,921.00	\$30,000.00	Renovation/Elevation
Totals	\$2,824,770.47	\$1,498,749.89	\$923,742.00	

B. Defendants' Websites:

31. At all relevant times, Defendants advertised Construction Services at various internet website locations including, for Rayne Construction, at www.rcmsnj.com ("RCMS Website") and www.longbeachislandhouseraising.net, ("LongBeach Website") and for Colmyer and Sons at www.mysticislandcontractors.us ("Colmyer and Sons Website").

32. Since at least September 11, 2015, the home page of the RCMS Website advertises that "RCMS House Raising" is "A Colmyer and Sons Company" and that it is, among other things, "RREM Grant Approved."

33. The home page of the June 24, 2016 RCMS Website, which is the same as the September 11, 2015 RCMS Website, appears, in part, as follows:



34. The RCMS Website home page includes the following:

A Company You Can Trust
Family Owned
Highly Experienced
Professional

RCMS is owned and operated by Jeff Colmyer. The Colmyer Family has been in the construction business for over 20 years.

We are experts at house raising and we offer full service construction, home building and remodeling through our sister company, Colmyer and Sons Construction. . . .

35. The June 14, 2016 home page of the LongBeach Website, which is identical to the September 16, 2015 LongBeach Website, appears, in part as:



36. The home page of the RCMS Website and the LongBeach Website includes the statement:

Turn Key House Raising

**Registered and Insured
General Contractor
Remodeling Contractor
Building Contractor**

37. On the “About Us” page, the RCMS Website and the LongBeach Website include the following:

RCMS is [sic] fully insured and registered house raising company specializing in raising houses along the New Jersey Shore. RCMS is solely owned by Jeff Colmyer who is also the owner of Colmyer and Sons Construction. RCMS was founded on the same principals [sic] that have made the Colmyer name synonymous with quality. Top quality craftsmanship, attention to detail, finishing projects in a timely manner, working closely with out [sic] customers to ensure that everything is to your satisfaction.

38. On the “House Raising” page, the RCMS Website and the LongBeach Website lists, in part, the following services:

Complete Turn Key House Raising
A Partial List of Our Services

- Secure Permits and Surveys
- Electric – Gas – Sewer – Water Disconnect
- Detach House From Foundation
- Raise Home to Specifications
- Reconstruction and Remodeling to your specifications.

39. Neither the RCMS Website nor the LongBeach Website contains Rayne Construction's HIC registration number or its HEC registration number.

40. The Colmyer and Sons Website homepage advertises that "Colmyer and Sons Construction has an excellent reputation as one of the top Home Builders and Home Improvement Contractors in Ocean County, New Jersey" and lists services, among other things, of "Turn Key House Raising" and "New Home Construction."

41. The Colmyer and Sons Website home page appeared, in part, as follows:



42. In the video that appears on the Colmyer and Sons home page, J. Colmyer states:

Colmyer and Sons Construction is a full-service contractor. We handle every aspect of construction from top to bottom. Our company is specifically geared right now to Hurricane Sandy. For the next 18 months, everything we do will be based on getting people back into their homes as quick as possible. We pride ourselves on being able to handle every aspect of what they're dealing with right now and have them back in their home as quick as

anybody out there. Someone contacts me now - they come to me with all kinds of concerns. Some have to knock their house down and need a modular, some of them have to raise their house and renovate it. We can handle all that stuff in-house. We have a turnover ratio for our modular... in other words, I could knock your home down, put in pilings, get a brand new home and have you sitting on your couch in under 100 days. If you're just raising and renovating it, I can have you in your home in under 90 days. I can't stress enough that we make every effort possible that when a customer comes through our door, we handle everything from there on out. We take all their worries away. We communicate with the insurance companies, we coordinate everything, they need to do. All they have to do is pick colors, tell me what kind of style house they want and so forth and then tell us how nice the house looks when it's done. . . .

43. On the Colmyer and Sons Website, it states, among other things:

- Turn Key House Raising
- New Home Construction
- Modular Home Construction
- Home Additions
- General Contracting . . .
- Shoring/Pilings/Foundations

44. The Colmyer and Sons Website also includes the statement:

“Turn Key House Raising – Our sister company Rayne Construction Management Services, LLC (RCMS) handles all of our house raising projects. Our projects include all engineering reports, securing permits, pilings and/or foundations and more. . . .”

45. The Colmyer and Sons Website also includes the statement:

★ ★ ★ ★ ★ Five Star Rated

- **Over 2 Decades of Experience**
- **Superior Craftsmanship**
- **Prompt & Dependable**
- **Commitment to Excellence**
- **Registered and Insured**
- **Top Quality Materials**

46. The Colmyer and Sons Website does not contain the company's HIC registration number, its HEC registration number or its New Home Builders registration number.

C. Home Improvement Contractor Registrations and New Home Builder Registration:

47. On or about October 1, 2008, T. Cimino t/a J. Colmyer & Sons submitted to the Division a Home Improvement Contractor Application for Initial Registration (“HIC Registration Application”) for registration as a home improvement contractor (“HIC”) in the State.

48. On or about December 16, 2008, the Division registered T. Cimino t/a J. Colmyer & Sons as an HIC and issued her registration number 13VH04876200.

49. On or about May 31, 2013, T. Cimino submitted to the Division an HIC Registration Application for Rayne Construction. On this application, T. Cimino listed her title as “President” of the company and signed the application in that capacity.

50. On or about July 10, 2013, the Division registered Rayne Construction as an HIC and issued it registration number 13VH07557000.

51. On or about July 19, 2013, T. Cimino submitted to the Division an HIC Registration Application for Colmyer and Sons. On this application, T. Cimino listed her title as “President” and signed the application as “Owner.”

52. On or about July 24, 2013, the Division registered Colmyer and Sons as an HIC and issued it registration number 13VH07581200.

53. On or about December 31, 2013, the HIC registration for T. Cimino t/a J. Colmyer & Sons expired due to non-renewal.

54. On or about October 1, 2014, T. Cimino submitted to the Division a home elevation contractor application for initial registration as a home elevation contractor (“HEC”) for Rayne Construction. On this application, T. Cimino listed her title as “VP of Operations” and signed the application in that capacity.

55. On or about November 25, 2014, the Division registered Rayne Construction as an HEC and issued it registration number 13HE00002900.

56. On or about August 31, 2015, Rayne Construction's insurance company cancelled its commercial general liability insurance for non-payment.

57. On or about October 2, 2015, the Division suspended Rayne Construction's HIC registration number 13VH07557000 and its HEC registration number 13HE00002900 for failure to maintain commercial general liability insurance.

58. On or about October 19, 2015, Colmyer and Sons' insurance company cancelled its commercial general liability insurance for non-payment.

59. On or about November 5, 2015, the Division suspended Colmyer and Sons' HIC registration number 13VH04876200.

60. Subsequent to these suspensions, Colmyer and Sons and Rayne Construction did not provide proof of commercial general liability insurance and did not apply for reinstatement of their HIC and/or HEC registration numbers.

61. At present, T. Cimino t/a J. Colmyer & Sons is not registered as an HIC with the Division.

62. At present, Colmyer and Sons is not registered as an HIC with the Division.

63. At present, Rayne Construction is not registered as an HIC or as an HEC with the Division.

64. Colmyer and Sons also maintained New Home Builder Registration Number 46053, which was issued by the New Jersey Department of Community Affairs ("DCA") on or about July 11, 2013. The registration application was submitted by T. Cimino. On the initial application, T.

Cimino listed her title as “VP” and on subsequent renewals as “Owner.” This registration remains active.

D. Defendants’ Business Practices Generally:

65. At varying times, the Rayne Defendants continued Construction Services when the required commercial general liability insurance was cancelled for non-payment, including raising a consumer’s home.

66. On at least two occasions, the Rayne Defendants entered into a contract with a consumer for Construction Services at a time when the required commercial general liability insurance was cancelled for non-payment.

67. At varying times, the Rayne Defendants refused to provide copies of proof of commercial general liability insurance despite requests by consumers.

68. At varying times, Defendants failed to begin and/or complete work on the agreed upon date or time period represented orally or in the home improvement contract.

69. At varying times, Defendants commenced Construction Services only to abandon the work and not return to the consumers’ homes for weeks, months or at all.

70. At varying times, Defendants failed to give timely written notice to the consumer for any delay in the performance of Construction Services and when the work would begin or be completed.

71. At varying times, Defendants failed to respond to consumers’ calls, e-mails and/or texts inquiring into when Defendants would begin or continue Construction Services that they had already commenced, but then abandoned.

72. At varying times, consumers who were able to reach Defendants were given the “run around,” and a variety of excuses as to why Defendants could not start or had stopped Construction Services.

73. At varying times, Defendants provided consumers with a date and time for their return to the consumers’ homes to continue Construction Services, but then failed to appear.

74. At varying times, Defendants provided consumers with a date and time for particular work to be completed, but then failed to complete the work.

75. At varying times, Defendants commenced Construction Services without obtaining the requisite permits.

76. On at least one occasion, a consumer who contracted with the Rayne Defendants for home elevation work, was issued a “stop work order” for beginning work without a permit.

77. On at least one occasion, a consumer who contracted with the Rayne Defendants for home elevation work, was issued a “stop work order” because of insufficient funds to pay for the permit, despite the consumer previously providing the company with the money to cover the cost of the permit.

78. On at least one occasion, a consumer who contracted with the Rayne Defendants for home elevation work learned that pilings had been driven, but no permit for placing the pilings or pilings certification had been obtained.

79. On at least one occasion, a consumer who contracted with the Colmyer Defendants received a condemnation notice on a sunroom because a framed roof was installed without permits.

80. At varying times, the Rayne Defendants misrepresented to consumers that a permit application had been submitted when it had not been submitted.

81. At varying times, the Rayne Defendants failed to timely submit a permit application.

82. At varying times, J. Colmyer admitted to consumers that he took their money and did nothing; that he was "out of money"; that the money the consumer had given to him was "gone"; that he was "tapped"; and that he had spent a consumer's money on "other jobs."

83. At varying times, J. Colmyer asked consumers for additional monies for materials and payroll, stating that he did not have money to finish the consumer's job, and threatening to walk off the job if he did not receive additional monies.

84. At varying times, J. Colmyer asked consumers to pay subcontractors directly.

85. At varying times, consumers provided the Rayne Defendants with money to "make payroll."

86. At varying times, consumers paid out-of-pocket for work that was included in Defendants' contracts and/or already paid for, such as directly paying subcontractors and for permits, surveying and engineering reports.

87. On at least one occasion, the Colmyer Defendants did not pay a third party company for siding resulting in the third party company's placement of a lien on the consumer's property.

88. At varying times, the Rayne Defendants installed a product that was different than what was agreed upon without the consumers' consent (e.g., wrapping existing trim with aluminum in place of installing new Aztec trim, using non-treated lumber as a structural component in an exterior environment).

89. At varying times, the Defendants performed Construction Services in a substandard manner including, but not limited to: (a) incorrectly installing waste lines; (b) installing unsafe electrical wiring; (c) incorrectly suspending floor joists; (d) cutting laminated beams too short; (e) leaving rotten plywood sheathing on a house and covering it with new siding; and (f) installing a new roof that leaked, and then failed to make the necessary corrective repairs.

90. At varying times, the Defendants caused damage to a consumer's home while performing Construction Services and then failed to fix, clean, or compensate the consumer for the damage including, but not limited to: (a) leaving a home open to the elements thereby causing extensive water damage; (b) cracking a fireplace hearth; (c) installing windows in a substandard manner that allowed rain to enter and damage the home.

91. At varying times, consumers obtained estimates from or hired other contractors to correct and complete the Rayne Defendants' Construction Services and incurred substantial additional costs to do so.

92. At varying times, Defendants took money from consumers and did little or no work.

93. At varying times, Defendants refused to issue a refund when requested by consumers after Defendants failed to perform the contracted-for Construction Services.

94. At varying times, the Rayne Defendants refused to provide to consumers upon request, itemized invoices and/or an accounting of the work completed to date.

95. On at least one occasion, the Rayne Defendants provided a consumer, upon request, with an invoice and the consumer discovered work on the invoice that was billed, but not done.

96. At varying times, the Rayne Defendants' allegedly "completed" Construction Services that repeatedly failed inspections, including, but not limited to, plumbing, electrical, foundation, and pilings.

97. At varying times, the Defendants abandoned jobs and left the homes uninhabitable, including, but not limited to: (a) raising a home and leaving it up on pilings, without any access to the home or completing any further work; (b) leaving a home exposed to the elements for months, thereby causing extensive damage; (c) leaving a home without water service, sewer service, a roof, windows, siding, any insulation, plumbing, HVAC, interior walls, a kitchen or bathroom.

E. Defendant Jeff Colmyer:

98. Since at least September 11, 2015, J. Colmyer advertised on the home page of the RCMS Website that “RCMS is owned and operated by Jeff Colmyer.”

99. Since at least September 2015, J. Colmyer advertised on the “About Us” page of the RCMS Website and the LongBeachWebsite that “RCMS is solely owned by Jeff Colmyer who is also the owner of Colmyer and Sons Construction.”

100. Since at least September 2015, J. Colmyer appears in a video on the home page of the Colmyer and Sons Website describing the “full-service contractor” aspect of the company and the time commitment to getting consumers back into their homes.

101. At all relevant times J. Colmyer signed contracts with consumers for Construction Services on behalf of Colmyer and Sons and/or Rayne Construction.

102. At all relevant times, J. Colmyer was responsible for performing the Construction Services for which consumers contracted with Colmyer and Sons and/or Rayne Construction.

103. At varying times, J. Colmyer took money from consumers and admitted that he performed no work or that the money was “gone” or spent on “other jobs.”

104. At varying times, J. Colmyer asked consumers for additional monies for payroll or materials and threatened to walk off a job without such additional monies.

105. At varying times, J. Colmyer asked consumers for additional monies to pay for items already included in contracts and/or paid for such as permits and subcontractors.

106. At all relevant times, Colmyer and Sons and Rayne Construction were located in the same office in 960 Radio Road, Little Egg Harbor, New Jersey (“Little Egg Harbor Address”).

107. At all relevant times, J. Colmyer worked in the office at the Little Egg Harbor Address

108. At varying times, J. Colmyer went to consumers' homes to pick up checks.

109. At varying times, J. Colmyer provided updates to consumers on the status of permit applications and/or construction on their homes.

110. At varying times, J. Colmyer was copied on legal correspondence from consumers' attorneys.

F. Defendant Tiffany Cimino:

111. At all relevant times, T. Cimino worked in the office at the Little Egg Harbor Address.

112. At varying times, T. Cimino accepted certified mail at the Little Egg Harbor Address on behalf of Defendants.

113. At varying times, T. Cimino went to consumers' homes to pick up checks.

114. At varying times, T. Cimino endorsed consumer checks made out to either Colmyer and Sons or Rayne Construction.

115. At varying times, T. Cimino filed permit applications for Construction Services.

116. At varying times, T. Cimino provided updates to consumers on the status of permit applications and/or construction on their homes.

117. At varying times, T. Cimino was copied on legal correspondence from consumers' attorneys.

118. At varying times, T. Cimino participated in meetings with consumers and J. Colmyer at the Little Egg Harbor Address and/or at the consumers' homes.

119. At varying times, T. Cimino participated in meetings with consumers without J. Colmyer at the Little Egg Harbor Address.

120. On at least one occasion, T. Cimino met with a consumer who brought in proof that subcontractors had been paid directly. T. Cimino drafted, signed and dated a memo acknowledging the payments, what they were for, that the money would be deducted from the final amount due, and calculated and stated the final amount.

121. On at least one occasion, T. Cimino met with a consumer to discuss water damage to the consumer's home after the Colmyer Defendants left the home open to the elements. T. Cimino committed the Colmyer Defendants to specific repairs at no extra cost to the consumer. T. Cimino memorialized the conversation and agreement in writing, which was signed by the consumer and T. Cimino on behalf of the company.

G. Defendants' Home Improvement Contracts:

122. The Defendants used myriad contract forms.

123. At varying times, the Defendants used a document entitled "proposal" to provide an initial proposal. At varying times, the same "proposal" form was entitled "contract," or "Exhibit A" and attached to a document entitled "Contract Agreement." At varying times, Defendants used other contract forms.

124. At varying times, Defendants provided consumers with proposals and/or had consumers enter into multiple contracts with different HIC and/or HEC registration numbers for example: (a) consumers entered into multiple contracts with Rayne Construction; (b) consumers entered into multiple contracts with Colmyer and Sons; (c) consumers entered into contracts with both Colmyer and Sons and Rayne Construction, sometimes having received a proposal from Tiffany Cimino t/a J. Colmyer & Sons.

125. On at least one occasion, a consumer entered into a contract with the Rayne Defendants which contained the Tiffany Cimino t/a J. Colmyer & Sons HIC registration number (13VH04876200), which had already expired.

126. At all relevant times, the Defendants represented in their contracts that work would be completed within a ninety (90) day/three (3) month time period.

127. At varying times, Defendants had consumers execute additional contracts when the start and completion dates on the original contract had passed and work had not yet begun.

128. At varying times, Defendants provided consumers with home improvement contracts that did not include: (a) an accurate description of the work to be done and the principal products and materials to be used or installed in performance of the contracts; (b) the terms and conditions affecting contract price, including the cost of materials and the hourly rate for labor; (c) the required "Notice to Consumer" cancellation language; (d) the toll-free telephone number provided by the Director of the Division for consumers making inquiries concerning home improvement contractors; and/or (e) a certificate of commercial general liability insurance.

129. On at least two occasions, the Colmyer Defendants provided a consumer with a home improvement contract that bore the registration number 13VH04876300. This HIC registration number is assigned to D.A.B. Builders, Inc., a Milford (Hunterdon County), New Jersey company, which upon information and belief, is an unrelated company.

130. On at least two occasions, the Colmyer Defendants failed to obtain a consumer's signature on the contract.

COUNT I

**VIOLATION OF THE CFA BY DEFENDANTS
(UNCONSCIONABLE COMMERCIAL PRACTICES)**

131. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 130 above as if more fully set forth herein.

132. The CFA, N.J.S.A. 56:8-2, prohibits:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby...

133. The CFA defines "merchandise" as including "any objects, wares, goods, commodities, services or anything offered, directly or indirectly to the public for sale." N.J.S.A. 56:8-1(c).

134. At all relevant times, Defendants have been engaged in the advertisement and sale of merchandise within the meaning of N.J.S.A. 56:8-1(c), including, but not limited to Construction Services.

135. In the operation of their businesses, Defendants have engaged in the use of unconscionable commercial practices, deception, false promises and/or misrepresentations.

136. Defendants have engaged in unconscionable commercial practices including, but not limited to, the following:

- a. Failing to begin or complete Construction Services on the agreed upon date or time period represented orally or in the home improvement contract;
- b. Failing to provide timely written notice for any delay in the performance of Construction Services, as well as when work would commence or be completed;

- c. Commencing Construction Services then abandoning a project for weeks and/or months at a time;
- d. Commencing Construction Services then abandoning a project totally;
- e. Failing to respond to consumer's calls inquiring when Construction Services would commence or continue;
- f. Giving consumers who reached Defendants the "run around" and a variety of excuses as to why the work could not start or had stopped;
- g. Providing consumers with a date and time for their return to the consumers' homes to begin or continue Construction Services and then failing to return to the home;
- h. Providing consumers with a date and/or timetable for particular work or projects to be completed, then failing to complete the work;
- i. Abandoning a job and leaving a home uninhabitable;
- j. Commencing home improvement work without confirming that the requisite permits had been obtained;
- k. Performing Construction Services in a substandard manner and failing to make the necessary corrective repairs;
- l. Performing Construction Services that repeatedly failed inspections;
- m. Performing Construction Services in a substandard manner which required consumers to hire a second contractor to correct and complete Defendants' work;
- n. Causing damage to a consumer's home while performing Construction Services and then failing to fix, clean, or compensate the consumer for the damage;
- o. Failing to maintain commercial general liability insurance;
- p. Taking money from consumers and then, through statements made by J. Colmyer, telling them that he "did nothing with the money," that he was "out of money," that the money was "gone," that he was "tapped," and that he had spent the money on "other jobs";
- q. Asking consumers for additional monies for materials and payroll and threatening to walk off the job if the monies were not provided;

- r. Asking consumers to pay subcontractors directly;
- s. Having consumers pay out-of-pocket for work that was included in contracts and/or already paid for;
- t. Taking money from consumers and doing little or no work;
- u. Refusing to issue refunds when requested by consumers after failing to perform contracted-for work;
- v. Using a variety of contract forms and having consumers complete multiple contracts;
- w. Requiring consumers to execute contracts with new start and completion dates when the completion dates on the original contract had passed without any work commencing;
- x. Taking consumers' payments and then failing to provide the contracted-for Construction Services; and
- y. Failing to perform Construction Services according to the contract specifications and demanding and receiving payment for the work.

137. The Rayne Defendants have engaged in unconscionable commercial practices including, but not limited to, the following:

- a. Continuing Construction Services when the required commercial general liability insurance was cancelled for non-payment, including raising a consumer's home;
- b. Entering into new contracts for Construction Services when the required commercial general liability insurance was cancelled for non-payment;
- c. Failing to timely submit a permit application;
- d. Installing a product that was different than what was agreed upon in the contract without the consumers' consent;
- e. Requiring consumers to provide additional monies for "payroll;"
- f. Refusing to provide consumers with itemized invoices and/or an accounting of work completed to date; and
- g. Billing for work that was not done.

138. The Colmyer Defendants have engaged in unconscionable commercial practices including, but not limited to, the following:

- a. Refusing to provide copies of proof of insurance despite requests;
- b. Failing to pay a subcontractor for home siding which resulted in the subcontractor placing a lien on the consumer's home; and
- c. Providing a consumer with a contract that contains the HIC Registration number for an unrelated company (D.A.B. Builders, Inc.).

139. Each unconscionable commercial practice and act of deception by Defendants constitutes a separate violation under the CFA, N.J.S.A. 56:8-2.

COUNT II

VIOLATION OF THE CFA BY DEFENDANTS (FALSE PROMISES, MISREPRESENTATIONS)

140. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 139 above as if more fully set forth herein.

141. Defendants' conduct in violation of the CFA includes, but is not limited to, the following acts of false promises and/or misrepresentations:

- a. Representing to consumers that work would begin or be completed on an agreed upon date or time period, when such was not the case;
- b. Representing to consumers that Defendants would appear at consumers' homes at a date certain to complete previously abandoned Construction Services, when such was not the case;
- c. Representing to consumers that Defendants would complete particular work or projects on a date certain or specified timetable, when such was not the case; and
- d. Representing that certain items were included in a contract and then requiring the consumer to pay out-of-pocket for those items.

142. The Rayne Defendants' conduct in violation of the CFA includes, but is not limited to, the following false promises and/or misrepresentations:

- a. Misrepresenting that a permit application had been submitted;
- b. Misrepresenting that agreed upon products or materials would be used;
- c. Representing on the RCMS and the LongBeach Websites that Rayne Construction offers "Turn Key House Raising," when such is not the case;
- d. Representing on the RCMS and the Long Beach Websites, that Rayne Construction is "registered and insured," when such is not the case; and
- e. Representing on the RCMS and the Long Beach Websites, that Rayne Construction "was founded on the same principals [sic] that have made the Colmyer name synonymous with quality. Top quality craftsmanship, attention to detail, finishing projects in a timely manner, working closely with out[sic] customers to ensure that everything is to your satisfaction", when such is not the case.

143. The Colmyer Defendants' conduct in violation of the CFA includes, but is not limited to, the following false promises and/or misrepresentations:

- a. Representing on the Colmyer and Sons Website that Colmyer and Sons offers "Turn Key House Raising," when such is not the case;
- b. Representing on the Colmyer and Sons Website, through the statements of J. Colmyer, that "everything [Colmyer and Sons does] will be based on getting people back into their homes as quick as possible". . . that it could "knock your home down, put in pilings, get a brand new home and have you sitting on your couch in under 100 days". . . and that "If you're just raising and renovating it, [Colmyer and Sons] can have you in your home in under 90 days," when such is not the case;
- c. Representing on the Colmyer and Sons Website that the company is "Five Star Rated," when such is not the case;
- d. Representing on the Colmyer and Sons Website that the company provides "superior craftsmanship," and has a "commitment to excellence," when such is not the case;
- e. Representing on the Colmyer and Sons Website that the company uses "top quality materials," when such is not the case; and
- f. Representing on the Colmyer and Sons Website that the company is "prompt & dependable," when such is not the case.

144. Each false promise and/or misrepresentation by Defendants constitutes a separate violation under CFA, N.J.S.A. 56:8-2.

COUNT III

VIOLATION OF THE CONTRACTORS' REGISTRATION ACT BY DEFENDANTS

145. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 144 above as if set forth more fully herein.

146. The Contractors' Registration Act, among other things, governs the registration of home improvement contractors with the Division.

147. The Contractors' Registration Act is applicable to home elevation contractors, pursuant to N.J.S.A. 56:8-138.2a.

148. "Contractor," as defined in the Contractor Registration Act, N.J.S.A. 56:8-137, includes home elevation contractors.

149. "Home Improvement[s]" as defined in the Contractor Registration Act, N.J.S.A. 56:8-137, includes, home elevations.

150. "Home Improvement Contracts" as defined in the Contractor Registration Act, N.J.S.A. 56:8-137, includes contracts for home elevations.

151. At all relevant times, Defendants have been "Contractor[s]" within the definition of the Contractors' Registration Act, N.J.S.A. 56:8-137.

152. At all relevant times, Defendants have offered to perform and performed "Home Improvement[s]" within the definition of the Contractors' Registration Act, N.J.S.A. 56:8-137.

153. At all relevant times, Defendants have entered into "Home Improvement Contract[s]" within the definition of the Contractors' Registration Act, N.J.S.A. 56:8-137.

154. The Contractors' Registration Act provides, in pertinent part:

a. On or after December 31, 2005, 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 of Consumer Affairs in accordance with the provision of this act.

[N.J.S.A. 56:8-138(a).]

155. At all relevant times, Defendants were not exempt from the Contractors' Registration Act pursuant to N.J.S.A. 56:8-140.

156. The Contractors' Registration Act requires that home improvement contractors maintain insurance and provides in pertinent part:

a. On or after December 31, 2005, every registered contractor who is engaged in home improvements shall secure, maintain and file with the director proof of a certificate of commercial general liability insurance in a minimum amount of \$500,000 per occurrence.

b. Every registered contractor engaged in home improvements whose commercial general liability insurance policy is cancelled or nonrenewed shall submit to the director a copy of the certificate of commercial general liability insurance for a new or replacement policy which meets the requirements of subsection a. of this section before the former policy is no longer effective.

[N.J.S.A. 56:8-142(a), (b).]

157. The Contractors' Registration Act requires that certain information must be displayed by the Contractor and provides in pertinent part:

a. All registrants shall prominently display their registration numbers within their places of business, in all advertisements distributed within this State, on business documents, contracts and correspondence with consumers of home improvement services in this State, and on all commercial vehicles registered in this State and leased or owned by registrants and used by registrants for the purpose of providing home improvements, except for vehicles leased or rented to customers of registrants by a registrant or any agent or representative thereof.

[N.J.S.A. 56:8-144(a).]

158. The Contractors' Registration Act further provides that "[t]he Director shall provide a toll-free telephone number for consumers making inquiries regarding contractors." N.J.S.A. 56:8-149(b). At all relevant times, the Director established and has published such toll-free telephone number.

159. In this regard, the Contractors' Registration Act requires that:

b. Any invoice, contract or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided pursuant to [N.J.S.A. 56:8-149] of this Act."

[N.J.S.A. 56:8-144(b).]

160. Moreover, the Contractors' Registration Act includes a writing requirement for contracts priced in excess of \$500.00 and provides, in pertinent part:

a. On or after December 31, 2005, every home improvement contract for a purchase price in excess of \$500, and all changes in the terms and conditions of the contract, shall be in writing. The contract shall be signed by all parties thereto, and shall clearly and accurately set forth in legible form and in understandable language all terms and conditions of the contract, including but not limited to:

(2) A copy of the certificate of commercial general liability insurance required of a contractor pursuant to section 7 [C. 56:8-142] of this act and the telephone number of the insurance company issuing the certificate; and

(3) The total price or other consideration to be paid by the owner, including the finance charges.

[N.J.S.A. 56:8-151(a).]

161. In addition, the Contractors' Registration Act requires that home improvement contractors include cancellation language as follows:

b. ... The contract shall contain a conspicuous notice printed in at least 10-point bold-faced type as follows:

"NOTICE TO CONSUMER

YOU MAY CANCEL THIS CONTRACT AT ANY TIME BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO CANCEL THIS CONTRACT, YOU MUST EITHER:

1. SEND A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OR

2. PERSONALLY DELIVER A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION TO:

(Name of Contractor)

(Address of Contractor)

(Phone Number of Contractor)

If you cancel this contract within the three-day period, you are entitled to a full refund of your money. Refunds must be made within 30 days of the contractor's receipt of the cancellation notice."

[N.J.S.A. 56:8-151(b).]

162. Defendants have engaged in conduct in violation of the Contractors' Registration Act including, but not limited to, the following:

- a. Failing to maintain commercial general liability insurance (N.J.S.A. 56:8-142(a), (b));
- b. Failing to include registration numbers on advertisements (RCMS, LongBeach and Colmyer and Sons Websites) (N.J.S.A. 56:8-144(a));
- c. Failing to include on invoices, contracts and correspondence, the toll-free telephone number provided by the Director for consumers to call with inquiries or complaints concerning home improvement contractors (N.J.S.A. 56:8-144(b));
- d. Failing to include with home improvement contracts a copy of Defendants' certificate of commercial general liability insurance as well as the telephone number of the company issuing the certificate (N.J.S.A. 56:8-151(a)(2));

- e. Failing to include in home improvement contracts all the terms and conditions affecting price (e.g., hourly rate for labor) (N.J.S.A. 56:8-151(a)(3)); and
- f. Failing to include the "Notice to Consumer" required cancellation language in home improvement contracts (N.J.S.A. 56:8-151(b)).

163. The Colmyer Defendants have engaged in conduct in violation of the Contractors' Registration Act including, but not limited to, the following:

- a. Failing to include on home improvement contracts the HIC registration number while including the HIC registration number for an unrelated company (N.J.S.A. 56:8-144(a)); and
- b. Failing to include on home improvement contracts the signatures of both parties (N.J.S.A. 56:8-151(a)).

164. Defendants' conduct constitutes multiple violations of the Contractors' Registration Act, N.J.S.A. 56:8-136 et seq.

COUNT IV

VIOLATION OF THE CONTRACTOR REGISTRATION REGULATIONS BY DEFENDANTS

165. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 164 above as if more fully set forth herein.

166. The Contractor Registration Regulations, N.J.A.C. 13:45A-17.1 et seq., among other things, provide procedures for the registration of home improvement contractors with the Division.

167. Home elevation contractors and home elevations are included within the respective definitions of home improvement contractors and home improvements, pursuant to N.J.A.C. 13:45A-17.2.

168. At all relevant times, Defendants have been "Home Improvement Contractor[s]" and/or "Contractor[s]" within the definition of the Contractor Registration Regulations, N.J.A.C. 13:45A-17.2.

169. At all relevant times, Defendants have performed "Home Improvement[s]" within the definition of the Contractor Registration Regulations, N.J.A.C. 13:45A-17.2.

170. At all relevant times, Defendants have "advertise[d]" home improvements within the meaning of the Contractor Registration Regulations, N.J.A.C. 13:45A-17.2.

171. At all relevant times, Defendants have entered into "Home Improvement Contract[s]" within the definition of the Contractor Registration Regulations, N.J.A.C. 13:45A-17.2.

172. The Contractor Registration Regulations provide, in pertinent part:

(a) Unless exempt under N.J.A.C. 13:45A-17.4:

1. No person shall engage in the business of making or selling home improvements in this State unless registered with the Division in accordance with this subchapter; . . .

[N.J.A.C. 13:45A-17.3(a).]

173. At all relevant times, Defendants were not exempt from the Division's contractor registration requirements.

174. The Contractor Registration Regulations require that home improvement contractors prominently display certain information and provide, in pertinent part:

(d) A registered home improvement contractor shall prominently display:

2. The contractor's registration number on all advertisements distributed within this State, on business documents, contracts and correspondence with consumers of home improvement services within the State.

(f) Any invoice, contract or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided by the Division pursuant to (b) of N.J.S.A. 56:8-149 and shall be displayed in all caps in at least 10-point bold-face type as follows: FOR INFORMATION ABOUT CONTRACTORS AND THE CONTRACTORS' REGISTRATION ACT, CONTACT THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF CONSUMER AFFAIRS AT 1-888-656-6225.

[N.J.A.C. 13:45A-17.11(d)(2), (f).]

175. Further, the Contractor Registration Regulations provide that:

(a) Every registered home improvement contractor shall secure and maintain in full force and effect during the entire term of registration a commercial general liability insurance policy and shall file with the Director proof that such insurance is in full force and effect.

(b) The insurance policy . . . shall provide a minimum coverage in the amount of \$500,000 per occurrence. Every registered contractor engaged in home improvements . . . whose commercial general liability insurance policy is canceled or nonrenewed shall submit to the Director a copy of the certificate of commercial general liability insurance for a new or replacement policy, which meets the requirements of (a) above before the former policy is no longer effective.

[N.J.A.C. 13:45A-17.12(a), (b).]

176. Additionally, the Contractor Registration Regulations provide that:

In addition to the requirements of a home improvement contract pursuant to N.J.A.C. 13:45A-16.2, every home improvement contract in which a person required to be registered as a home improvement contractor is a party shall comply with the provisions of N.J.S.A. 56:8-151.

[N.J.A.C. 13:45A-17.13.]

177. Defendants have engaged in conduct in violation of the Contractor Registration Regulations including, but not limited to, the following:

- a. Failing to include on all advertisements (RCMS, Long Beach and Colmyer and Sons Websites), HIC and/or HEC Registration numbers (N.J.A.C. 13:45A-7.11(d)(2));
- b. Failing to include on home improvement contracts the informational statement and toll-free telephone number provided by the Director for consumers making inquiries regarding contractors (N.J.A.C. 13:45A-17.11(f));
- c. Failing to maintain commercial general liability insurance (N.J.A.C. 13:45A-17.12(a), (b)); and

- d. Entering into home improvement contracts that did not comply with the requirements of N.J.S.A. 56:8-151 (e.g., failing to include the "Notice to Consumer" required cancellation language).

178. The Colmyer Defendants have engaged in conduct in violation of the Contractor Registration Regulations including, but not limited to, the following:

- a. Failing to include in home improvement contracts the HIC Registration numbers while including the HIC registration number of an unrelated company (N.J.A.C. 13:45A-17.11(d)); and
- b. Entering into home improvement contracts that did not comply with the requirements of N.J.S.A. 56:8-151 (e.g., failing to set forth the signature of both parties) (N.J.A.C. 13:45A-17.13).

179. Defendants' conduct constitutes multiple violations of the Contractor Registration Regulations, N.J.A.C. 13:45A-17.1 et seq., each of which constitutes a per se violation of the CFA, N.J.S.A. 56:8-1 et seq.

COUNT V

VIOLATION OF THE HOME ELEVATION REGULATIONS BY DEFENDANTS

180. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 179 above as if more fully set forth herein.

181. The Home Elevation Regulations, specifically N.J.A.C. 13:45A-17A.3(a), provide that:

On or after October 1, 2014, no person shall engage in the business of making or selling home elevations in this State unless registered with the Division in accordance with this subchapter, except as provided in (a)1 below:

182. The exceptions provided in N.J.A.C. 13:45A-17A.3(a)1 do not apply to Defendants.

183. The Home Elevation Regulations, specifically, N.J.A.C. 13:45A-17A.10, require that certain information must be displayed by the Contractor and provides in pertinent part:

(d) A registered home elevation contractor shall prominently display:

...

2. The home elevation contractor's registration number on all advertisements distributed within this State, on business documents and contracts, and on correspondence with consumers of home elevation services in this State.

...

(f) Any invoice, contract, or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided by the Division pursuant to N.J.S.A. 56:8-149(b), which shall be displayed in all caps in at least 10-point boldface type as follows: FOR INFORMATION ABOUT CONTRACTORS AND THE CONTRACTORS' REGISTRATION ACT, CONTACT THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF CONSUMER AFFAIRS AT 1-888-656-6225.

[N.J.A.C. 13:45A-17A.10(d)(2), (f).]

184. The Home Elevation Regulations contain the same requirements concerning written contracts, as in the Contractors' Registration Act. Specifically N.J.A.C. 13:45A-17A.12, provides that:

In addition to the requirements of a home improvement contract pursuant to N.J.A.C. 13:45A-16.2, every home elevation contract in which a person required to be registered as a home elevation contractor is a party shall comply with the provisions of N.J.S.A. 56:8-151.

185. The Rayne Defendants have engaged in conduct in violation of the Home Elevation Regulations including, but not limited to:

- a. Failing to include in Advertising, the HEC registration number (N.J.S.A. 13:45A-17A.10(d)(2));
- b. Failing to include in home improvement contracts the informational statement and toll-free telephone number provided by the Director for consumers making inquiries regarding home elevation contractors (N.J.A.C. 13:45A-17A.10(f)); and

- c. Failing to include in the home improvement contracts all of the terms and conditions affecting price (e.g., hourly rate for labor) (N.J.S.A. 56:8-151(a)).

186. The Rayne Defendants' conduct constitutes multiple violations of the Home Elevation Regulations, N.J.A.C. 13:45A-17A.1 et seq., each of which constitutes a per se violation of the CFA, N.J.S.A. 56:8-1 et seq.

COUNT VI

VIOLATION OF THE HOME IMPROVEMENT PRACTICES REGULATIONS BY DEFENDANTS

187. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 186 above as if more fully set forth herein.

188. The Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq., among other things, prohibit certain acts and practices of a seller connected with a sale, advertisement or performance of home improvement contracts.

189. Defendants are "Seller[s]" within the definition of N.J.A.C. 13:45A-16.1.

190. The Home Elevation Contractor Regulations, N.J.A.C. 13:45A-17A.12, provide that the requirements of N.J.A.C. 13:45A-16.2 related to a home improvement contract pertain to every home elevation contract.

191. The Home Improvement Regulations prohibit certain practices with regard to the performance of home improvement contracts, as follows:

- a. Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., utilization by a seller of the following acts and practices involving the sale, attempted sale, advertisement or performance of home improvements shall be unlawful hereunder.

....

- 3. Bait selling:

....

- iv. Substitute products or materials for those specified in the home improvement contract, or otherwise represented or sold for use in the making of home improvements by sample, illustration or model, without the knowledge or consent of the buyer;

....

7. Performance:

- ii. Fail to begin or complete work on the date or within the time period specified in the home improvement contract, or as otherwise represented. . . .
- iii. Fail to give timely written notice to the buyer of reasons, beyond the seller's control for any delay in the performance and when work will begin or be completed.

....

10. Building permits:

- i. No seller contracting for the making of home improvements shall commence work until he is sure that all applicable state or local building and construction permits have been issued as required under state laws or local ordinances;

....

12. Home improvement contract requirements-writing requirement: All home improvement contracts for a purchase price in excess of \$500.00, and all changes in the terms and conditions thereof shall be in writing. Home improvement contracts which are required by this subsection to be in writing, and all changes in the terms and conditions thereof, shall be signed by all parties thereto, and shall clearly and accurately set forth in legible form and in understandable language all terms and conditions of the contract, including, but not limited to, the following:

....

- ii. A description of the work to be done and the principal products and materials to be used or installed in performance of the contract. The description shall include, where applicable, the name, make, size, capacity, model, and model year of principal products or fixtures to be installed, and the type, grade, quality, size or quantity of principal building or

construction materials to be used. Where specific representations are made that certain types of products or materials will be used, or the buyer has specified that certain types of products are to be used, a description of such products or materials shall be clearly set forth in the contract;

- iii. 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)(3)(iv), (7)(ii-iii), (10) (i), (12)(ii)-(iii).]

192. Defendants violated the Home Improvement Regulations by engaging in certain conduct including, but not limited to, the following:

- a. Failing to begin or complete home improvement work on the date or within the time period represented (N.J.A.C. 13:45A-16.2(a)(7)(ii));
- b. Failing to give timely written notice to consumers of reasons, beyond Defendants' control, for any delay in the performance or when home improvement work will begin or be completed (N.J.A.C. 13:45A-16.2(a)(7)(iii));
- c. Failing to include in home improvement contracts a description of the work to be done and the principal products and materials to be used or installed (N.J.A.C. 13:45A-16.2(a)(12)(ii));
- d. Failing to include in home improvement contracts the total price to be paid including the hourly rate for labor and all other terms and conditions affecting price (N.J.A.C. 13:45A-16.2(a)(12)(iii)); and
- e. Commencing home improvement work without confirming that the requisite permits had been issued (N.J.A.C. 13:45A-16.2(10)(i)).

193. The Rayne Defendants violated the Home Improvement Regulations by engaging in certain conduct including, but not limited to the following:

- a. Substituting products or materials for those specified in the home improvement contract or otherwise represented without the knowledge or consent of the buyer (N.J.A.C. 13:45A-16.2(a)(3)(iv)).

194. The Colmyer Defendants violated the Home Improvement Regulations by engaging in certain conduct including, but not limited to the following:

- a. Failing to include in home improvement contracts the signature of both parties (N.J.A.C. 13:45A-16.2(a)(12)).

195. Defendants' conduct constitutes multiple violations of the Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq., each of which constitutes a per se violation of the CFA, N.J.S.A. 56:8-1 et seq.

COUNT VII

VIOLATION OF THE ADVERTISING REGULATIONS BY DEFENDANTS

196. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 195 above as if more fully set forth herein.

197. The Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq., address, among other issues, general advertising practices.

198. Specifically, the Advertising Regulations governing general advertising practices provide, in relevant part:

- (a) Without limiting the application of N.J.S.A. 56:8-1 et seq., the following practices shall be unlawful with respect to all advertisements:

...

9. The making of false or misleading representations of facts concerning the reasons for, existence or amounts of price reductions, the nature of an offering or the quantity of advertised merchandise available for sale.

[N.J.A.C. 13:45A-9.2(a)9.]

199. The Rayne Defendants violated the Advertising Regulations by engaging in certain conduct including, but not limited to:

- a. Representing on the RCMS and the LongBeach Websites that Rayne Construction offers "Turn Key House Raising," when such is not the case;
- b. Representing on the RCMS and the Long Beach Websites, that Rayne Construction is "registered and insured," when such is not the case; and
- c. Representing on the RCMS and the Long Beach Websites, that Rayne Construction "was founded on the same principals [sic] that have made the Colmyer name synonymous with quality. Top quality craftsmanship, attention to detail, finishing projects in a timely manner, working closely with out [sic] customers to ensure that everything is to your satisfaction", when such is not the case.

200. The Colmyer Defendants violated the Advertising Regulations by engaging in certain conduct including, but not limited to:

- a. Representing on the Colmyer and Sons Website that Colmyer and Sons offers "Turn Key House Raising," when such is not the case;
- b. Representing on the Colmyer and Sons Website, through the statements made by J. Colmyer, that "everything [Colmyer and Sons does] will be based on getting people back into their homes as quick as possibly" . . . that it could "knock your home down, put in pilings, get a brand new home and have you sitting on your couch in under 100 days" . . . and that "If you're just raising and renovating it, [Colmyer and Sons] can have you in your home in under 90 days," when such is not the case;
- c. Representing on the Colmyer and Sons Website that the company is "Five Star Rated," when such is not the case;
- d. Representing on the Colmyer and Sons Website that the company provides "superior craftsmanship," and has a "commitment to excellence," when such is not the case;
- e. Representing on the Colmyer and Sons Website that the company uses "top quality materials," when such is not the case; and
- f. Representing on the Colmyer and Sons Website that the company is "prompt & dependable," when such is not the case.

201. Defendants' conduct constitutes multiple violations of the Advertising Regulations, specifically N.J.A.C. 13:45A-9.2(a)9, each of which constitutes a per se violation of the CFA.

COUNT VIII

**VIOLATIONS OF THE CFA, THE CONTRACTORS' REGISTRATION ACT
THE CONTRACTOR REGISTRATION REGULATIONS,
THE HOME ELEVATION REGULATIONS
THE HOME IMPROVEMENT REGULATIONS AND/OR
THE ADVERTISING REGULATIONS
BY J. COLMYER**

202. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 201 above as if more fully set forth herein.

203. At all relevant times, J. Colmyer has been a partial owner, member, manager, director, representative and/or agent of J. Colmyer and Sons, Colmyer and Sons, and Rayne Construction, and has controlled, directed and/or participated in the management and operation of those entities, including the conduct alleged in this Complaint.

204. In that capacity, J. Colmyer, among other things, advertised that he was the owner/operator of Rayne Construction and Colmyer and Sons, participated in meetings with consumers at the Little Egg Harbor Address, signed contracts with consumers for Construction Services on behalf of Rayne Construction and Colmyer and Sons, was responsible for performing the contracted-for Construction Services, made representations and provided updates to consumers as to the status of permit applications and/or construction on their homes, went to consumers' homes to pick up checks, admitted to consumers that he took their money without performing services, threatened to walk off jobs if consumers failed to provide him with additional monies to make "payroll," abandoned construction and left homes uninhabitable, worked at the Little Egg Harbor Address, and was copied on legal correspondence.

205. The conduct of J. Colmyer makes him personally liable for the violations of the CFA, the Contractors' Registration Act, the Contractor Registration Regulations, the Home Elevation

Regulations, the Home Improvement Regulations and/or the Advertising Regulations committed by Tiffany Cimino t/a J. Colmyer & Sons, Rayne Construction and Colmyer and Sons.

COUNT IX

**VIOLATIONS OF THE CFA, THE CONTRACTORS' REGISTRATION ACT
THE CONTRACTOR REGISTRATION REGULATIONS,
THE HOME ELEVATION REGULATIONS
THE HOME IMPROVEMENT REGULATIONS AND/OR
THE ADVERTISING REGULATIONS
BY T. CIMINO**

206. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 205 above as if more fully set forth herein.

207. At all relevant times, T. Cimino has been a partial owner, member, manager, director, representative and/or agent of J. Colmyer & Sons, Colmyer and Sons and Rayne Construction, and has controlled, directed and/or participated in the management and operation of those entities, including the conduct alleged in this Complaint.

208. In that capacity, T. Cimino, among other things, worked at the Little Egg Harbor Address, accepted certified mail on behalf of Defendants, was copied on legal correspondence, went to consumers' homes to pick up checks, endorsed checks, filed applications for permits, participated in meetings with consumers, and made representations to consumers concerning the status of permit applications and/or construction on their homes.

209. The conduct of T. Cimino makes her personally liable for the violations of the CFA, the Contractors' Registration Act, the Contractor Registration Regulations, the Home Elevation Regulations, the Home Improvement Regulations and/or the Advertising Regulations committed by Tiffany Cimino t/a J. Colmyer & Sons, Rayne Construction and Colmyer and Sons.

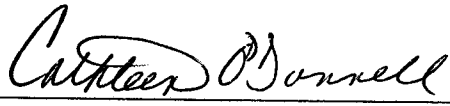
PRAYER FOR RELIEF

WHEREFORE, based upon the foregoing allegations, Plaintiffs respectfully request that the Court enter judgment against Defendants:

- (a) Finding that the acts and practices of Defendants constitute multiple instances of unlawful practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., the Contractors' Registration Act, N.J.S.A. 56:8-136 et seq., the Contractor Registration Regulations, N.J.A.C. 13:45A-17.1 et seq., the Home Elevation Regulations, N.J.A.C. 13:45A-17A.1 et seq., the Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq.; and/or the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq.;
- (b) Permanently enjoining Defendants and their owners, officers, directors, shareholders, founders, members, managers, agents, servants, employees, representatives, independent contractors and all other persons or entities directly under their control, from engaging in, continuing to engage in or doing any acts or practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., the Contractors' Registration Act, N.J.S.A. 56:8-136 et seq., the Contractor Registration Regulations, N.J.A.C. 13:45A-17.1 et seq., the Home Elevation Regulations, N.J.A.C. 13:45A-17A.1 et seq., the Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq., and/or the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq., including, but not limited to, the acts and practices alleged in this Complaint, as authorized by the CFA, N.J.S.A. 56:8-8;
- (c) Permanently enjoining Defendants from owning, operating or otherwise managing any business or other entity in the State, whether registered with the Division or not, that advertises, offers for sale, sells and/or performs Construction Services within the State;
- (d) Permanently enjoining Defendants from the advertisement, offer for sale, sale and performance of home improvements, including home elevations and new home building within the State;
- (e) Cancelling the Certificates of Formation in the State for Rayne Construction Management Services, LLC and Colmyer and Sons, LLC;
- (f) Permanently revoking the HIC, HEC and New Home Builders registration issued to Defendants;
- (g) Directing Defendants, jointly and severally, to pay restitution to restore to any affected person, whether or not named in this Complaint, any money or real or personal property acquired by means of any alleged practice herein to be unlawful and found to be unlawful, as authorized by N.J.S.A. 56:8-8;

- (h) Directing Defendants, jointly and severally, to disgorge to the New Jersey Department of Community Affairs, RREM Program funds unlawfully acquired or retained, as authorized by N.J.S.A. 56:8-8;
- (i) Directing Defendants, jointly and severally, to pay the maximum statutory civil penalties for each and every violation of the CFA, in accordance with N.J.S.A. 56:8-13;
- (j) Directing Defendants, jointly and severally, to pay costs and fees, including attorneys' fees, for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19; and
- (k) Granting such other relief as the interests of justice may require.

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Cathleen O'Donnell
Deputy Attorney General
Consumer Fraud Prosecution Section

Dated: August 3, 2016
Newark, New Jersey

RULE 4:5-1 CERTIFICATION

I certify, to the best of my information and belief, that the matter in this action involving the aforementioned violations of the CFA, N.J.S.A. 56:8-1 et seq., the Contractors' Registration Act, N.J.S.A. 56:8-136 et seq., the Contractor Registration Regulations, N.J.A.C. 13:45A-17.1 et seq., the Home Elevation Regulations, N.J.A.C. 13:45A-17.1 et seq., the Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq., and/or the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq. is not the subject of any other action pending in any other court of this State. I am aware that private contract and other actions have been brought against the Defendants, including at least two actions that involve consumer fraud allegations, entitled, respectively, "Graczyk v. Rayne Construction Management Services, LLC, et al., OCN-L-003571-15 and Gardner v. Colmyer and Sons Construction, LLC, OCN-L-000329-16. I further certify, to the best of my information and belief, that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action at this time.

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: Cathleen O'Donnell
Cathleen O'Donnell
Deputy Attorney General
Consumer Fraud Prosecution

Dated: August 3, 2016
Newark, New Jersey

RULE 1:38-7(c) CERTIFICATION OF COMPLIANCE

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: *Cathleen O'Donnell*
Cathleen O'Donnell
Deputy Attorney General
Consumer Fraud Prosecution Section

Dated: August 3, 2016
Newark, New Jersey

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Deputy Attorney General Cathleen O'Donnell is hereby designated as trial counsel for the Plaintiffs in this action.

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: *Cathleen O'Donnell*
Cathleen O'Donnell
Deputy Attorney General
Consumer Fraud Prosecution Section

Dated: August 3, 2016
Newark, New Jersey