

FILED

MAR 15 2009

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 :

Andromeda Painting :

Respondent (s) :

Administrative Action
No. Z0800208

FINAL ORDER
AFTER REVIEW
OF SUBMISSION

This matter was opened by the Division of Consumer Affairs, Office of Consumer Protection ("Consumer Affairs" or "Division"), as an investigation of whether the advertising of Andromeda Painting (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:

In an advertisement appearing on July 2008, in the Home Improvement Guide, Respondent offered to perform or engage in the business of making or selling home improvements in New Jersey by offering to perform interior painting, wall preparation and sheetrock on residential property, an activity included in the definition of "home improvement" as set forth at N.J.A.C. 13:45A-16.1a. A search conducted by the Division determined that Respondent has not been registered as a home improvement contractor with the Division, as required by the Registration Act, specifically N.J.S.A. 56:8-138, at any time since December 31, 2005 (the effective date of the Registration Act).

N.J.S.A. 56:8-139 expressly prohibits any unregistered person from advertising home improvement services on residential property, on or after December 31, 2005, in any classified advertising, directory, sign or card. 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 Acting 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 October 27, 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 November 29, 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 and bank statements from November 2007 through October 2008 and has been persuaded to modify the terms as set forth in the Notice of Violation.

Accordingly, IT IS on this 15th day of March, 2009 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 \$500 as a civil penalty pursuant to N.J.S.A. 56:8-13. The amount due and owing totals \$500. "This sum shall be paid as follows:

An initial payment of one hundred dollars (\$100) shall be made on April 10, 2009. The remaining balance of four hundred dollars (\$400) shall be paid in four equal monthly installments of one hundred dollars. The additional installments will be due on May 10, 2009 and continuing on the first day of the month every month thereafter through and including August 10, 2009."

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:

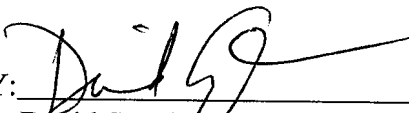
Attention: Van Mallett
Case Management Tracking
New Jersey Department of Law and Public Safety
Division of Consumer Affairs
124 Halsey Street
P.O. Box 45025
Newark, New Jersey 07101

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