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FILED

APR 27 2010

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

Jim DeSclafani and
Danth Construction Corporation
42 Ardmore Rd.
Freehold, NJ 07728

Administrative Action

CONSENT ORDER

This matter having been opened by the Division of Consumer Affairs, Office of Consumer Protection (hereinafter referred to as "Consumer Affairs" or "Division"), as an investigation to ascertain whether violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (hereinafter referred to as "CFA" or the "Act"), the Contractor Registration Act, N.J.S.A. 56:8-136 et seq. (hereinafter referred to as "CRA"), the Home Improvement Contractor Registration Regulations

N.J.A.C. 13:45A-17.1 et seq., (hereinafter "Home Improvement Contractor Registration Regulation") and the Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq., (hereinafter "Home Improvement Regulations") have been or are being committed by Jim DeSclafani and Danth Construction Corporation, located at 42 Ardmore Rd., Freehold, NJ, 07728, their principals, officers, directors, employees, representatives, agents and assigns (hereinafter collectively referred to as "Respondents") and it appearing that the parties have reached an amicable agreement thereby resolving the issues in controversy and concluding this matter without the need for further action, and Respondents having voluntarily cooperated and consented to the entry of the within order and for good cause shown,

IT IS on this _____ day of _____, 2010 ORDERED and AGREED as follows:

BUSINESS PRACTICES

1. Respondents, their principals, officers, agents, representatives and employees shall not engage in any unfair or deceptive acts or practices in the conduct of their business in the State of New Jersey and shall comply with such state laws, rules and regulations as now constituted or as may hereafter be amended, including but not limited to, the CFA, the CRA, the Home Improvement Contractor Registration Regulations and the Home Improvement Regulations in connection with home improvement contracting.

2. Respondents shall cease and desist from engaging in the following:

- (A) Failing to include in a home improvement contract the dates and/or time period on or within which the work is to begin and/or be completed, in violation of N.J.A.C.13:45A-16.2(a) 12.iv;
- (B) Failing to include the "Notice to Consumer" in home improvement contracts in

violation of N.J.S.A. 56:8-151.b; and

- (C) Failing to provide a copy of Respondents' certificate of commercial general liability insurance to consumers along with the home improvement contract in violation of N.J.S.A. 56:8-151.a.(2).

3. Specifically, Respondents shall comply with the following business practices:

- (A) Set forth in all home improvement contracts the dates and/or time period on or within which the work is to be begun and/or be completed, as required by N.J.A.C. 13:45A-16.2(a)12.iv;
- (B) Include the "Notice to Consumer" in all home improvement contracts as required by N.J.S.A. 56:8-151.b; and
- (C) Provide a copy of their certificate of commercial general liability insurance to all consumer along with all home improvement contracts as required by N.J.S.A. 56:8-151.a.(2).

PAYMENT TO THE STATE

5. Respondents shall pay the Division of Consumer Affairs the sum of \$1,500.00 as a civil penalty pursuant to N.J.S.A. 56:8-13 and \$839.78 as reimbursement for the Division's costs pursuant to N.J.S.A. 56:8-11, 876.30. The aforesaid amounts, totaling \$2,339.78 shall be submitted together with this Consent Order fully executed by Respondents.

6. The payments for penalties and costs 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
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

7. If, after the signing of this Consent Order, Respondents engages in any acts or practices which constitute a violation of the Consumer Fraud Act, the CRA, the Home Improvement Contractor Registration Regulations, the Home Improvement Regulations, or this Consent Order, Respondents will be subject to the imposition of enhanced penalties pursuant to N.J.S.A. 56:8-13 or N.J.S.A. 56:8-18, without prejudice to Respondents' right to present evidence in mitigation and affirmative defenses.

8. Failure by Respondents to make the payment to the State in the time prescribed by this Consent Order shall constitute a breach of this Consent Order. In the event of such breach, the Division may take whatever additional action it deems necessary and appropriate under the circumstances, including, but not limited to, seeking an Order from the Superior Court compelling compliance and seeking additional penalties, costs and attorneys fees.

DUTY TO COOPERATE

9. Respondents acknowledge that home improvement contractors who sell or perform home improvements are required to register with the Division in accordance with the Contractors' Registration Act, N.J.S.A. 56:8-136 through 152 and the Home Improvement Contractor Registration Regulations and Respondents have agreed to apply for registration prior to doing any home improvement work in the State of New Jersey.

10. Respondents shall have a continuing duty to provide assistance and/or information as requested by the Division in connection with his home improvement activities. Respondents shall also have a continuing duty to cooperate in any inquiry, investigation or hearing conducted by the Division

in connection with the advertising, selling or making of home improvements within this State.

11. Failure by Respondents to comply with any of the requirements of this Consent Order, including, but not limited to, the payment provisions of Paragraphs 5 and 6 shall constitute grounds for the Division to deny Respondents application to register as a home improvement contractor.

GENERAL PROVISIONS

12. Nothing contained in this Consent Order shall be construed to limit or affect the rights of any persons or entities who are not parties to this Consent Order with respect to any of the matters contained herein.

13. Nothing contained herein shall in any manner or fashion be construed to limit or affect any position that the parties may take in any future or pending action not specifically encompassed herein.

14. If any provision of this Consent Order or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Consent Order or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision of this Consent Order shall be valid and enforced to the fullest extent permitted by law.

15. This Consent Order resolves all claims and causes of action against Respondents for violations of the CFA, The Contractors Registration Act and the regulations promulgated pursuant thereto, in particular, the Home Improvement Regulations, which were known by the Division's Office of Consumer Protection through January 8, 2010.

16. The parties represent that an authorized representative of each has signed this Consent Order with full knowledge, understanding and acceptance of its terms and that this person has done so with the authority to legally bind the respective parties.

17. This Consent Order constitutes the entire agreement between the parties hereto and shall bind the parties hereto and their representatives, officers, directors, agents, employees, successors and assigns.

18. Respondents shall not represent or imply that any advertising procedure or other act or practice hereinafter used or engaged in by Respondents have been required or approved, in whole or part, by the Attorney General or the Division of Consumer Affairs or any of the State's agencies or agents.

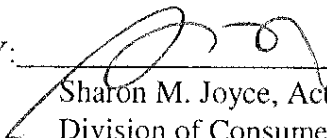
19. The Division has advised Respondents to seek the advise of an attorney before entering into this consent order.

20. The parties acknowledge that for purposes of enforcement of this Consent Order, New Jersey law shall govern the terms and provisions herein.

21. Respondents acknowledges that this Consent Order is a public document subject to the New Jersey Open Public Records Act.

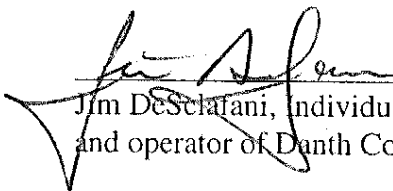
22. This Consent Order constitutes a final agency action and shall be effective upon filing.

PAULA T. DOW
ACTING ATTORNEY GENERAL OF NEW JERSEY

BY: 
Sharon M. Joyce, Acting Director
Division of Consumer Affairs

DATED: 4/27/2010

The undersigned has read this Consent Order, understands it, and agrees to be bound by its terms.


Jim DeSclafani, Individually and as Owner
and operator of Dant Construction Corporation

DATED 4/14/2010