

**FILED**

**DEC 1 2008**

**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 :**

Administrative Action  
No. Z0800055

of

Fence Unlimited, LLC

**FINAL ORDER  
AFTER REVIEW  
OF SUBMISSION**

**Respondent (s)**

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 Fence Unlimited, LLC (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 March 2008, in the Shopper, Respondent offered to perform or engage in the business of making or selling home improvements in New Jersey by offering to perform vinyl, aluminum, chain link and PVC fence installation 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 Director may: 1) assess penalties against the Respondent pursuant to N.J.S.A. 56:8-13; 2) direct Respondent to take certain remedial actions including payment of costs to the State pursuant to N.J.S.A. 56:8-11; and 3) order the Respondent to cease and desist from engaging in unlawful activity pursuant to N.J.S.A. 56:8-18.

A Notice of Violation was served upon Respondent on March 26, 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. On August 12, 2008, by way of mitigation conference, Respondent asked the Division to consider certain mitigation circumstances before rendering a final decision. Specifically, the Division has reviewed the following: a letter dated August 22, 2008 and has not been persuaded to modify the terms as set forth in the Notice of Violation.

Accordingly, IT IS on this 1<sup>st</sup> day of Dec, 2008 ORDERED:

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

2. Respondent shall pay the Division of Consumer Affairs the sum of \$5,000 as a civil penalty pursuant to N.J.S.A. 56:8-13. The amount due and owing totals \$5,000. "This sum shall be paid as follows:

A payment of \$5,000 shall be mailed or delivered within fifteen (15) days of receipt of this Order.

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:

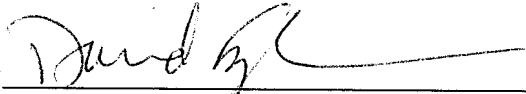
Attention: Case Management Tracking  
New Jersey Department of Law and Public Safety  
Division of Consumer Affairs  
124 Halsey Street  
P.O. Box 45025  
Newark, New Jersey 07101

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