

FEB 12 2009

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

Hickey Overhead Door Company

Respondent(s)

Administrative Action
No. Z0800197

**FINAL ORDER
ON DEFAULT**

This matter was opened by the Division of Consumer Affairs, Office of Consumer Protection ("Consumer Affairs" or the "Division"), as an investigation of whether the advertising of Hickey Overhead Door Company (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 in the 2007-2008 Ocean County Yellow Book and on a contract dated April 25, 2008, Respondent offered to perform or engage in the business of making or selling home improvements in New Jersey by offering to perform garage door services on residential property, an activity included in the definition of "home improvement," as set forth in 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 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 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 issued to Respondent on October 6, 2008, setting forth the findings of fact and conclusions of law above. A copy of the advertisement and contract was attached to the Notice of Violation, establishing the factual basis for the charges. Attached to this Order is the certification of Investigator Barby Menna, attesting to the efforts made to serve Respondent. Those efforts are sufficient to establish that service has been made.

Respondent was offered the opportunity to be heard on these charges. Respondent failed to reply within the fifteen (15) days as allowed by the terms of the Notice of Violation and, thus, the charges are deemed uncontested and true. As the Notice provides, the Director has reviewed the matter and concludes that no basis exists to alter or modify the findings of fact or conclusions of law in the Notice of Violation, or the disposition as set forth therein.


Accordingly, IT IS on this 12th day of Feb., 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 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. Payment for penalty shall be made by a 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:

Case Management Tracking Unit
New Jersey Department of Law and Public Safety
Division of Consumer Affairs
124 Halsey Street
P.O. Box 45025
Newark, New Jersey 07101
3. Payment shall be made within ten(10) days of issuance of this Final Order. 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 \$25,000.00 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