

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
_____ DIVISION

STATE OF ARKANSAS, *ex rel.*
LESLIE RUTLEDGE, ATTORNEY GENERAL

PLAINTIFF

v.

CASE NO. 60CV-19-

HOWARD GENE HICKMAN and HGH
DEVELOPMENT, LLC

DEFENDANTS

COMPLAINT

The State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General (“the State”), for its Complaint against Howard Gene Hickman and HGH Development, LLC (“Defendants”), states:

I. INTRODUCTION

1. This is a consumer protection action brought to redress and restrain violations of the Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-101 through 115 (“ADTPA”) and the Home Solicitation Sales Act (“HSSA”), § 4-89-101 *et seq.*

2. Howard Gene Hickman (“Hickman”), through his business, HGH Development, LLC (“HGH”), solicited consumers at their homes to perform residential construction work. Unbeknownst to consumers, Hickman was not a

licensed contractor. Defendants kept thousands of dollars in consumers' payments without performing the work in violation of the ADTPA and HSSA.

3. The State seeks restitution for affected consumers, an order imposing civil penalties, costs, and other injunctive relief against Defendants.

II. PARTIES

4. Plaintiff is the State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General. Attorney General Rutledge is the chief legal officer of the State. Pursuant to Ark. Code Ann. § 4-88-104, 4-88-113, and 4-89-106 the State may seek civil enforcement of the ADTPA.

5. Defendant Howard Gene Hickman is a resident of Little Rock, Arkansas and currently under the parole supervision of the Arkansas Department of Community Correction.

6. Defendant HGH Development, LLC was an Arkansas limited liability company operated by Howard Gene Hickman to conduct business as a residential builder in Pulaski, Lonoke, and other Arkansas counties. The Arkansas Secretary of State reports that its status is "not current." Its registered agent for service of process is United States Corporation Agents, Inc., 600 SE 5th St., Suite 22, Bentonville, AR 72712.

III. JURISDICTION

7. This Court has jurisdiction over this matter pursuant to Ark. Code Ann. § 4-88-104 and the common law of the State of Arkansas.

8. This Court has jurisdiction over Howard Gene Hickman and HGH Development, LLC pursuant to Ark. Code Ann. § 16-4-101. At all times relevant to this lawsuit, Defendants systematically and continuously conducted business in the State of Arkansas and availed themselves of the privilege of conducting business activities within the State of Arkansas.

9. Venue is proper pursuant to Ark. Code Ann. § 4-88-104, 4-88-112 and the common law of the State of Arkansas.

IV. FACTUAL ALLEGATIONS

10. Hickman was released on parole March 13, 2016, after a prison sentence imposed by the Lonoke and Pulaski County Circuit Courts for multiple felony theft of property and services convictions related to construction projects.

11. Hickman is not licensed by the Arkansas Contractor's Licensing Board and has been ordered to cease and desist soliciting and performing construction work by the Board on multiple occasions.¹

12. Hickman filed articles of organization for HGH Development, LLC on January 26, 2018.

13. Hickman owned and drove an HGH Development LLC branded work truck with the words "residential & commercial" "roofing and remodeling" and his telephone number.

14. HGH maintained a website at hghdevelopment.com with photographs of residential construction projects along with contact information.

¹ Ark. Code Ann. § 17-25-101 *et seq.* (Contractor licensing legal requirements, board enforcement authority, and penalty provisions).

15. The HGH website states:

WE'RE [SIC] A FULL SERVICE ROOFING AND REMODELING COMPANY.

HGH Development is a leader in all phases of commercial and residential roofing. We do it all! From excavation to handing you the keys, our team is here for your project from start to finish. We have the know-how to finish any project. We can build from the underground and up. Our team brings 30 years of experience and integrity to the industry.²

16. It also states:

- a. **Insurance Claims** Services include insurance claims to commercial and residential buildings from weather-related disasters including hail, wind, flood, and fire.
- b. **Maintenance Contracts** HGH Development, LLC offers maintenance contracts to businesses and private owners in the Central Arkansas area. We offer general repairs, as well as tile, painting, and carpentry.
- c. **Custom Projects** Have a custom design you want to bring to life? We have a comprehensive workshop equipped to create the custom construction needed for your interior or exterior projects.
- d. **Exterior Groundwork** From full-site development and earthwork, to driveways, etc. HGH has the crews and equipment to complete your job.

17. None of those statements are true because Hickman is not licensed to perform any residential or commercial construction work in Arkansas.

18. On July 16, 2019 Hickman accepted \$2,716 from Consumer 1 to perform residential roof repair work for hail damage to a home in Little Rock.

19. Hickman wrote the promised work and estimate for Consumer 1 on a proposal form stamped "HGH Development LLC."

20. He directed Consumer 1 to write the check out to Howard Hickman.

21. Hickman cashed the check.

² <https://www.hghdevelopment.com/services.html>

22. When Consumer 1 had not heard from Hickman in two weeks, he became suspicious, particularly after he found a “Seven on Your Side” news article reporting previous scams by Hickman.

23. Despite receiving repeated promises from Hickman to begin the work, Consumer 1 has neither received the promised work nor a refund.

24. On July 10, 2019, Hickman approached Consumer 2 at his home suggesting the roof needed repairs and offering repair and replacement residential construction services.

25. Hickman wrote a proposal to replace the leaking roof with a new metal roof on Customer 2’s home in Little Rock for \$7,000.

26. Consumer 2 paid Hickman a \$4,000 deposit based upon the proposal stamped with the name HGH.

27. Hickman cashed Consumer 2’s check and never performed the work nor returned the money.

28. On June 26, 2019, Hickman approached Consumer 3 at his home to solicit residential roof repair services.

29. Hickman represented to Consumer 3 that he had relationship with a State Farm insurance appraiser.

30. Based upon that misrepresentation, Consumer 3 presumed Defendants’ legitimacy, and then wrote Hickman a check for \$13,580 for HGH to perform the work set out in the proposal drafted by Hickman.

31. Hickman cashed Consumer 3’s check on the same day.

32. Hickman contracted with another person to perform the work on Customer's 3's residence, but then never paid the subcontractor for his labor or materials.

33. Defendants never completed the work on Customer 3's home, stopped returning calls, and did not provide a refund for the unfinished work.

V. VIOLATIONS OF LAW

34. The ADTPA sets forth the State's statutory program prohibiting deceptive and unconscionable trade practices.³

35. The business practices of Defendants constitute the sale of "goods" or "services."⁴

36. The same business practices constitute business, commerce, or trade.⁵

37. It is unlawful to "knowingly make a false representation as to the characteristics, ingredients, uses, benefits, alterations, source, approval, or certification of goods or services."⁶

38. Defendants have engaged in prohibited conduct by making false representations that:

- a. Hickman was legally authorized to perform the work advertised on its website; or,
- b. Hickman was legally authorized to perform the work written on proposals given to consumers; or,

³ Ark. Code Ann. §§ 4-88-101, et seq.

⁴ Ark. Code Ann. § 4-88-102(4) and (7).

⁵ Ark. Code Ann. § 4-88-107.

⁶ Ark. Code Ann. § 4-88-107(a)(1).

c. HGH is a “Full Service Roofing and Remodeling Company”.

39. Defendants have engaged in the unconscionable, false, or deceptive acts or practices in business, commerce, or trade in violation of the ADTPA.⁷

40. It is unconscionable, false, or deceptive to accept payments to perform work without performing the work or refunding consumers’ payments.

41. It is unconscionable, false, or deceptive to accept payments to perform work and then only perform minimal work without refunding consumers’ payments.

42. It is unconscionable, false, or deceptive to advertise commercial and residential roofing and remodeling services on a work truck bearing the name HGH Development LLC without having been issued the required licenses to perform the work advertised.

43. It is unconscionable, false, or deceptive to offer to perform residential or commercial building work that requires a residential contractor’s license without having a license.

44. Defendants, in connection with the sale and advertisement of construction services, engaged in the act, use, or employment of deception, fraud, or false pretenses in violation of the ADTPA.⁸

45. Defendant Hickman used deception, fraud or false pretenses when he told consumers, both orally and in the written proposals, he could and would perform services that required a residential contractor’s license, but then never performed the work or only minimally performed the work.

⁷ Ark. Code Ann. § 4-88-107(a)(10).

⁸ Ark. Code Ann. § 4-88-108(1).

46. Defendants used deception, fraud or false pretenses when they took consumers' money to perform residential services requiring a contractor's license even though they were not properly licensed.

47. Defendants, in connection with the sale and advertisement of construction services, utilized concealment, suppression, or omission of material facts with the intent that others rely upon the concealment, suppression, or omission, in violation of the ADTPA.⁹

48. Defendants concealed, suppressed, or omitted the following material facts with the intent that consumer rely upon the concealment, suppression, or omission that:

- a. Hickman was not licensed to perform the work advertised or proposed;
and,
- b. Hickman was ordered to cease and desist performing the work advertised or proposed.

49. The purpose of the HSSA is to “promote the public welfare by regulating home solicitation so that the consumer shall not become a victim of deceptive trade practices.”

50. Defendants are sellers who conducted a “home solicitation sale” at consumers' residences.¹⁰

⁹ Ark. Code Ann. § 4-88-108(2).

¹⁰ Ark. Code Ann. § 4-89-102(4)(A) & (6).

51. Defendants failed to comply with the requirements for an enforceable sale because Defendants committed a “deceptive trade practice” or violated the ADTPA.¹¹

52. Defendants failed to provide the notice of cancellation required by the HSSA.¹²

VI. PRAYER FOR RELIEF

53. The Attorney General may bring a civil action to seek to prevent persons from engaging in the use or employment of prohibited practices under the ADTPA and the HSSA.¹³

54. Likewise, the Attorney General may bring a civil action to seek to restore to any purchaser who has suffered any ascertainable loss by reason of the use or employment of the prohibited practices any moneys or real or personal property which may have been acquired by means of any practices declared to be unlawful, together with other damages sustained.¹⁴

55. The Attorney General may seek an injunction prohibiting any person from engaging in any deceptive or unlawful practice.¹⁵

56. Any person who violates the provisions of the ADTPA may be assessed a civil penalty of up to \$10,000 per violation.¹⁶

¹¹ Ark. Code Ann. § 4-89-108(b)(2), § 4-8-102(2).

¹² Ark. Code Ann. § 4-89-108(c).

¹³ Ark. Code Ann. §§ 4-88-113(a) & 4-89-106(a)(1).

¹⁴ Ark. Code Ann. § 4-88-113(a)(2)(A).

¹⁵ Ark. Code Ann. §§ 4-88-104 and 4-88-113(a)(1).

¹⁶ Ark. Code Ann. § 4-88-113(a)(3).

57. In addition, any person who violates the provisions of the ADTPA shall be liable to the Office of the Attorney General for all costs and fees, including but not limited to, expert witness fees and attorney's fees, incurred by the Office of the Attorney General in the prosecution of such actions.¹⁷

58. A "person" is an individual, organization, group, association, partnership, corporation, or any combination thereof.¹⁸

59. Hickman and HGH are each a "person" who has engaged in an unconscionable, false, or deceptive act or practice in business, commerce, or trade.

60. Defendants are jointly and severally for any penalties assessed and any monetary judgments awarded.¹⁹

61. The State will exercise its right to a trial by jury.

WHEREFORE, the above premises considered, the State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General, respectfully requests that this Court:

- a. Issue such orders, pursuant to Ark. Code Ann. §§ 4-88-104 and 4-88-113(a)(1), as may be necessary to prevent the use or employment by the Defendant of the practices described herein which are violations of the ADTPA and the HSSA.
- b. Issue a permanent injunction prohibiting Defendants from advertising or soliciting residential or commercial construction services in Arkansas.
- c. Order the suspension or forfeiture of Defendants' corporate charters, licenses, or permits or authorization to do business in this state.

¹⁷ Ark. Code Ann. § 4-88-113(e).

¹⁸ Ark. Code Ann. § 4-88-102(5).

¹⁹ Ark. Code Ann. § 4-88-113(d)(1).

- d. Issue an order, pursuant to Ark. Code Ann. § 4-88-113(a)(2)(A), requiring Defendants to pay restitution to those Arkansas consumers affected by the activities outlined herein; in addition, or in the alternative, enter an order requiring Defendants to remit to affected consumers all sums obtained from Arkansas consumers by methods prohibited by Arkansas law;
- e. Impose civil penalties pursuant to Ark. Code Ann. § 4-88-113(b), to be paid to the State by the Defendants in the amount of \$10,000.00 per each violation of the ADTPA proved at a trial of this matter, the full amount of which will exceed the amount necessary to establish federal diversity jurisdiction.
- f. Issue an order, pursuant to Ark. Code Ann. § 4-88-113(e), requiring Defendants to pay the State's costs in this investigation and litigation, including, but not limited to, attorneys' fees and costs; and
- g. For all other just and proper relief to which the State may be entitled.

Respectfully submitted,

LESLIE RUTLEDGE
ATTORNEY GENERAL

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