

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
IN AND FOR DUVAL COUNTY, FLORIDA

OFFICE OF THE ATTORNEY GENERAL,
STATE OF FLORIDA, DEPARTMENT OF
LEGAL AFFAIRS,

Plaintiff,

FILED

APR 25 2018

R. W. Fussell
CLERK CIRCUIT COURT

v.

CARLSON ENTERPRISES, LLC, a Florida
Limited Liability Company; and ADOLPH
W. CARLSON, individually and as manager
of Carlson Enterprises, LLC,

Defendants.

Case No.: 16-2018-CA-2349-XXX-MA

Division: CV-H

**ORDER ON THE ATTORNEY GENERAL'S EX PARTE MOTION FOR
TEMPORARY INJUNCTION WITH ASSET FREEZE**

Plaintiff, Office of the Attorney General, State of Florida, Department of Legal Affairs (the "Attorney General"), having filed its Complaint for Injunctive Relief, Restitution, Civil Penalties, and Other Statutory and Equitable Relief (the "Complaint"), pursuant to the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA"), Chapter 501, Part II, Florida Statutes (2017), and having moved for an asset freeze pursuant to sections 501.207(1)(b) and 501.207(3), Florida Statutes, and Florida Rule of Civil Procedure 1.610, and the Court having considered the pleadings and evidence, and with good cause appearing, finds that:

1. The Court has jurisdiction over the subject matter of this case and there is good cause to believe that it will have jurisdiction over the parties.

2. Venue lies properly with the Court.

3. There is good cause to believe that Defendants Carlson Enterprises, LLC, a Florida limited liability company, and Adolph W. Carlson have engaged in unfair or deceptive acts or practices that violate FDUTPA.

4. Under the circumstances of this case, an asset freeze is warranted. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for consumers in the form of monetary restitution will occur from the sale, transfer, or other disposition or concealment by Defendants of their assets unless Defendants are immediately restrained and enjoined by this Order. In addition, there is a substantial likelihood that Defendants may dissipate or disperse assets, thus preventing consumers who have been injured by Defendants from receiving equitable relief in the form of restitution. The preservation of the status quo can best be accomplished by issuing a freeze order precluding waste, dissipation, or distribution of Defendants' assets. Therefore, there is good cause for a temporary injunction with asset freeze.

5. There is good cause for issuing this Order without notice pursuant to sections 501.207(1)(b) and 501.207(3), Florida Statutes, and Florida Rule of Civil Procedure 1.610.

6. Giving due regard for the public interest, no bond is required to be posted pursuant to Florida Rule of Civil Procedure 1.610(b).

7. Should Defendants so request, a hearing will be held within five (5) days after Defendants apply for a hearing on a motion to dissolve or modify the temporary equitable relief granted by the Court.

Factual Findings

8. Defendant Adolph W. Carlson ("AWC") is a resident of Jacksonville Beach, Florida. Defendant Carlson Enterprises, LLC, ("CARLSON") is a company for which AWC is a Manager and an Owner. As a Manager and Owner of CARLSON, AWC formulated, directed, controlled, or had the authority to formulate, direct, or control the various business acts and practices of CARLSON.

9. Defendants are in the business of providing construction services, including roofing repair and roofing replacement services, to consumers. Since January 1, 2018, the Attorney General has received numerous consumer complaints against Defendants.

10. The Defendants are entering into contracts and accepting monies from consumers (as well as from the consumers' insurance companies) to perform roofing work, but Defendants are not performing the roofing work. The Defendants have failed to even begin work on numerous roofing projects from more than 6 months ago.

11. Consumer calls to CARLSON regarding the status of their roof repairs are not returned, project start dates are not honored, work is not completed, and

refunds are not issued to consumers. In short, the Defendants are entering into contracts and accepting monies from consumers but routinely failing to commence or complete the roofing work.

12. Defendants placed the following provision in their contracts with consumers: "If Customer cancels this Agreement after midnight (E.S.T.) on the 3rd business day following execution of this Agreement, Customer agrees to pay CELLC [CARLSON] liquidated damages in the amount of thirty percent (30%) of the insurance proceeds or \$3,000.00, whichever is greater, and CELLC agrees to accept such sum as liquidated damages." This provision inhibits consumers from hiring replacement roofing contractors to perform the needed roofing work that was not completed by Defendants.

13. Defendants' business practices harm consumers in many ways, including, *inter alia*: costing consumers money out-of-pocket, taking the proceeds from consumers' insurance policies, and leaving consumers with roofs that are still not fixed.

14. Based upon the pleadings and the evidence, on numerous occasions the Defendants: a) mislead consumers by telling consumers that if the consumers signed contracts for roofing repair, then Defendants would perform the roofing repairs; b) took monies from the consumers and failed to perform the roofing work; c) took the consumers' insurance proceeds and failed to perform the roofing work;

and d) failed to obtain the required permits to even begin the roofing work.

Accordingly, the Attorney General has demonstrated a clear legal right to the requested temporary injunction.

Definitions

For the purposes of this Order, the following definitions will apply:

15. "Asset" or "Assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, including without limitation "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," or "notes," (as these terms are defined in the Uniform Commercial Code), lines of credit, chattels, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables funds, and all cash, in any form and wherever located.

16. "Defendant" or "Defendants" means the Defendants, individually, collectively, or in any combination.

17. "Document" or "Documents" means any materials listed in Florida Rule of Civil Procedure 1.350, and includes writings, drawings, graphs, charts, photographs, phono-records, audio and video recordings, computer records, and other data compilations from which information can be obtained directly or indirectly, or if necessary, translated into a reasonably usable form through

detection devices. A draft or non-identical copy is a separate “document” within the meaning of this term.

18. “Carlson Enterprises, LLC” means Carlson Enterprises, LLC, and its managers, owners, shareholders, officers, directors, members, successors, and assigns, as well as any subsidiaries, and any fictitious business entities or business names created or used by this entity.

19. “Financial Institution” means any bank, savings and loan institution, credit union, or any financial depository of any kind, including without limitation any brokerage house, trustee, broker-dealer, escrow agent, title company, commodity trading company, or precious metal dealer.

20. “Person” means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

21. “Plaintiff” means the State of Florida, Office of the Attorney General, Department of Legal Affairs.

Prohibited Business Activities

22. **It is ORDERED**, based upon the evidence submitted and the foregoing factual findings, that Defendants, and their officers, agents, directors, servants, employees, independent contractors, attorneys, members, partners, corporations, subsidiaries, affiliates, successors and assigns, and all other persons

or entities in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, or other device, or any of the above, in connection with the advertising, marketing, promoting, soliciting, sale, or providing of roof repair or replacement services, are hereby restrained and enjoined from the following acts or practices:

a. Representing the enforceability of, attempting to enforce, or enforcing the following provision against any consumer which has contracted with Defendants for roofing work which has not been completed as of the date of this Order: "If Customer cancels this Agreement after midnight (E.S.T.) on the 3rd business day following execution of this Agreement, Customer agrees to pay CELLC [CARLSON] liquidated damages in the amount of thirty percent (30%) of the insurance proceeds or \$3,000.00, whichever is greater, and CELLC agrees to accept such sum as liquidated damages."; and

b. Misrepresenting to consumers the anticipated start date for the consumers' roofing work.

Asset Freeze

23. **It is further ORDERED** that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, members,

managers, owners, shareholders, partners, corporations, subsidiaries, affiliates, successors and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division or other device, or any of them except as provided herein, as stipulated by the parties, or as directed by further order of the Court, are hereby restrained and enjoined from:

a. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any funds, real or personal property, automobiles, accounts, contracts, consumer lists, coins, precious metals, artwork, shares of stock, uncashed checks, or other assets, or any interest therein, wherever located, including any assets outside the territorial United States, and that are:

- i. owned, controlled or held by, in whole or in part, for the benefit of, or subject to access by, or belonging to, any Defendant; or
- ii. in the actual or constructive possession of any Defendant, including without limitation any assets held for or by any Defendant in any account at any bank or savings and loan institution, any credit

union, retirement fund custodian, money market or mutual fund, storage company, trustee, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution or depository of any kind, either within or outside the territorial United States; or

iii. held by an agent of any Defendant as a retainer for the agent's provision of services to any Defendant; or

iv. owned, controlled by, or in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Defendant.

b. Opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of, or for the use or benefit of, any Defendant, or subject to access by any Defendant, or under the control of any Defendant.

c. Obtaining a personal or secured loan.

d. Cashing any checks or depositing any payments from customers of any Defendant.

e. Incurring liens or other encumbrances on real property, personal property, or other Asset titled in the name, individually or jointly,

of any Defendant or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Defendant.

24. Notwithstanding the asset freeze provisions of paragraph 23 above, and subject to prior written agreement with the Attorney General, Defendant AWC, may, upon compliance with the Financial Statements and Information section herein, pay from his individual personal funds reasonable and necessary living expenses.

25. The Assets affected by this section include both existing Assets and Assets acquired after the date of entry of this Order.

Duties of Third Party Asset Holders

26. **It is further ordered** that each Financial Institution, business entity, or person maintaining or having custody or control of any account or other Asset of any Defendants, or that at any time since April 1, 2014, has maintained or had custody of any such Asset, or any corporation, partnership, or other entity directly or indirectly owned, managed, controlled by, or under common control with any Defendant, which is provided with a copy of this Order, or otherwise has actual or constructive knowledge of this Order, will:

a. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement, dissipation, conversion, sale, liquidation, or other disposal of

any of the Assets, funds, Documents, or other property held by or under its control, on behalf of any Defendant, or for the benefit or use of any Defendant, in whole or in part, except as directed by further order of this Court or by written agreement of the Attorney General.

b. Deny Defendants access to any safe deposit boxes, commercial mail boxes, or storage facilities that are titled in the name, individually or jointly, of any Defendant, or otherwise subject to access by any Defendant.

c. Within five (5) business days of notice of this Order, provide to counsel for the Attorney General a declaration, pursuant to section 92.525, Florida Statutes, setting forth:

i. The identification of each account or Asset titled in the name, individually or jointly, of any Defendant, or to which any Defendant is a signatory, or which is held on behalf of or for the benefit or use of any Defendant, or subject to any Defendant's control, including all trust accounts on behalf of any Defendant or subject to any Defendant's control;

ii. The balance of each such account or a description and appraisal of the value of each such Asset as of the close of business on the day on which notice of this Order is received, and if the account or Asset has been closed or removed or more than \$500 withdrawn or

transferred from it within the last one hundred and twenty (120) days of the date of entry of this Order, then the date of the closure or removal of funds, the total funds removed or transferred, and the name and account number of the person or entity to whom such accounts, funds, or other Asset was remitted;

iii. The identification and location of any safe deposit box, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of any Defendant, or is otherwise subject to access or control by any Defendant, and if the account, safe deposit box, or other Asset has been closed or removed within the last one hundred and twenty (120) days of the date of entry of this Order, then the date closed or removed and the balance on said date.

d. Within five (5) business days of a request by the Attorney General, provide the Attorney General with copies of any records or other Documents pertaining to each such account or Asset, including without limitation originals or copies of account applications, corporate resolutions, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs.

27. The Attorney General may properly serve this Order on any Financial Institution or brokerage institution, business entity or person that holds, controls, or maintains custody of any account or Asset of any Defendant, or has held, controlled, or maintained custody of any account or Asset of any Defendant at any time since April 1, 2014, by facsimile transmission, hand delivery, overnight carrier, or electronic means.

28. The Assets affected by this section include both existing Assets and Assets acquired after the date of entry of this Order.

Maintenance of Records

29. **It is further ORDERED** that Defendants, and their officers, agents, directors, servants, employees, independent contractors, attorneys, members, partners, managers, shareholders, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division or other device, any of them, are hereby restrained and enjoined from:

a. Failing to create and maintain books, records, accounts, bank statements, accountants' reports, general ledgers, general journals, cash receipt ledgers, cash disbursement ledgers and source documents, documents indicating title to real or personal property, and any other data which, in

reasonable detail, accurately, fairly, and completely reflects the income, disbursements, transactions, dispositions, and uses of Defendants' Assets, including without limitation the transactions, ledgers, debits, or credits paid to others by Defendants or on behalf of Defendants.

b. Destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any Documents, including electronically stored information, that relate in any way to the business practices or business or personal finances of Defendants; to the business practices or finances of entities directly or indirectly under the control of Defendants; or to the business practices or finances of entities directly or indirectly under common control of any Defendant.

c. Creating, operating, or exercising control over any business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing the Attorney General with a written statement disclosing: (i) the name of the business entity; (ii) the address and telephone number of the business entity; (iii) the names of the business entity's officers, directors, principals, managers, and employees; and (iv) a detailed description of the business entity's intended activities.

Financial Statements and Information

It is further ORDERED that, within twenty (20) days of service of this Order:

30. Defendants will serve upon counsel for the Attorney General a completed credit report authorization and release form for Defendant AWC in the form provided as Attachment A (Credit Report Authorization and Release Form);

31. Defendants will serve upon counsel for the Attorney General a completed financial statement, accurate as of the date of entry of this Order, for Defendant AWC in the form provided as Attachment B (Florida Office of the Attorney General Financial Statement of Individual). The financial statements will be accurate as of the date of entry of this Order and will be verified under oath. Defendants will attach to these completed financial statements copies of Defendant AWC's pay stubs, statements for each cash, bank, and money market account for the last year, credit card statements, income tax returns, and loan applications, along with other attachments and schedules as called for by the instructions to the financial statements.

32. Defendants will serve upon counsel for the Attorney General completed financial statements, accurate as of the date of entry of this Order, for Defendant CARLSON, in the form provided as Attachment C (Florida Office of the Attorney General Financial Statement of Corporate Defendant). The financial

statements will be accurate as of the date of entry of this Order and will be verified under oath. Defendants will attach to these completed financial statements copies of Defendant CARLSON's pay stubs, statements for each cash, bank, and money market account for the last year, credit card statements, tax returns, and loan applications, along with other attachments and schedules as called for by the instructions to the financial statements.

33. **It is further ORDERED** that Defendants will immediately provide a copy of this Order to each affiliate, agent, partner, successor, assignee, director, employee, independent contractor, spouse, attorney, and/or representative of Defendants and will, within ten (10) days from the date of entry of this Order, serve upon counsel for the Attorney General a sworn statement that Defendants have complied with this section of this Order, which statement will include the names and addresses of each such person or entity who has received a copy of this Order.

Correspondence with the Attorney General

34. **It is further ORDERED** that, for purposes of this Order, all correspondence and pleadings to the Office of the Attorney General, State of Florida, Department of Legal Affairs, will be addressed to:

Robert Edelman, Esq.
Assistant Attorney General
Florida Bar No. 48589
1300 Riverplace Blvd., Suite 405

Jacksonville, FL 32207
Tel.: (904) 348-2720
Fax: (904) 858-6918
Service e-mail: oag.ec.jax@myfloridalegal.com
Corres. email: robert.edelman@myfloridalegal.com

Pursuant to Florida Rule of Judicial Administration 2.516, the email address:
robert.edelman@myfloridalegal.com is to be used for mandatory electronic
service.

ORDERED, APPROVED, AND ENTERED in Duval County, Florida.
Dated on: *25 April 2018 @ 11:12 AM.*



Circuit Court Judge