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**FILED**

OCT 12 2012

Robert P. Contillo  
P.J.Ch.

By: Nicholas Kant  
Deputy Attorney General

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION, BERGEN COUNTY  
DOCKET NO.: BER-C-125-12

JEFFREY S. CHIESA, Attorney General of the State of New Jersey, and  
ERIC T. KANEFSKY, Acting Director of the New Jersey Division of  
Consumer Affairs,

Plaintiffs,

v.

Civil Action

A-1 AMERICAN CONSTRUCTION, INC.; A 1 AMERICAN CHIMNEY LIMITED LIABILITY COMPANY; BRICK CITY CHIMNEY SERVICE, L.L.C.; BRICK CITY CHIMNEY SERVICE AND CLEANING, INC.; ROOFING POLICE, INC. a/k/a ROOFING SQUAD; JOHN KOT, individually, as owner, officer, manager and/or director of A-1 AMERICAN CONSTRUCTION, INC., A 1 AMERICAN CHIMNEY LIMITED LIABILITY COMPANY, BRICK CITY CHIMNEY SERVICE, L.L.C., BRICK CITY CHIMNEY SERVICE AND CLEANING, INC. and ROOFING POLICE, INC. a/k/a ROOFING SQUAD, t/a A-1 AMERICAN CONSTRUCTION [trade name] and A-1 AMERICAN, and d/b/a ROOFING SQUAD, CHIMNEY SQUAD, BRICK CITY, BRICK CITY CHIMNEY & ROOFING SERVICES, A-1 AMERICAN MASONRY, A-1 AMERICAN MASONRY SERVICES, A-1 AMERICAN CHIMNEY SERVICE, A-1 AMERICAN CONTRACTING, A-1 AMERICAN ROOFING, A-1 AMERICAN GUTTERS, A-1 AMERICAN SIDING, A-1 AFFORDABLE CONSTRUCTION, A ABOVE AMERICAN, A ABOVE BRICK CITY, AND DIAMOND ROOFING; GABRIEL R. DASILVA, JR., individually, as owner, officer, manager and/or director of A-1 AMERICAN CONSTRUCTION, INC., A 1 AMERICAN CHIMNEY LIMITED LIABILITY COMPANY, and ROOFING POLICE, INC. a/k/a ROOFING SQUAD; JANE and JOHN DOES 1-10, individually and as owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives and/or independent contractors of A-1 AMERICAN CONSTRUCTION, INC., A 1 AMERICAN CHIMNEY LIMITED LIABILITY COMPANY, BRICK CITY CHIMNEY SERVICE, L.L.C., BRICK CITY CHIMNEY SERVICE AND CLEANING, INC., ROOFING POLICE, INC. a/k/a ROOFING SQUAD, A-1 AMERICAN CONSTRUCTION and/or A-1 AMERICAN; and XYZ CORPORATIONS 1-10,

Defendants.

**FINAL JUDGMENT BY  
DEFAULT AND ORDER**

AS TO ALL DEFENDANTS

OTHER THAN

(Gabriel R. DaSilva)

OK

THIS MATTER was opened to the Court on the application of plaintiffs Jeffrey S. Chiesa, Attorney General of the State of New Jersey ("Attorney General"), and Eric T. Kanefsky, Acting Director of the New Jersey Division of Consumer Affairs ("Director") (collectively, "Plaintiffs"), (by Nicholas Kant, Deputy Attorney General, appearing), by way of a Complaint filed on April 17, 2012, alleging that A-1 American Construction, Inc. ("A-1 American Construction"), A 1 American Chimney Limited Liability Company ("A 1 American Chimney"), Brick City Chimney Service, L.L.C. ("Brick City Chimney Service"), Brick City Chimney Service and Cleaning, Inc. ("Brick City Chimney Service and Cleaning"), Roofing Police, Inc. a/k/a Roofing Squad ("Roofing Police"), John Kot, individually, as owner, officer, manager and/or director of A-1 American Construction, A 1 American Chimney, Brick City Chimney Service, Brick City Chimney Service and Cleaning and Roofing Police, t/a A-1 American Construction [trade name] and A-1 American, and d/b/a Roofing Squad, Chimney Squad, Brick City, Brick City Chimney & Roofing Services, A-1 American Masonry, A-1 American Masonry Services, A-1 American Chimney Service, A-1 American Contracting, A-1 American Roofing, A-1 American Gutters, A-1 American Siding, A-1 Affordable Construction, A Above American, A Above Brick City, and Diamond Roofing ("Kot"), and Gabriel R. DaSilva, Jr., individually, as owner, officer, manager and/or director of A-1 American Construction, A 1 American Chimney and Roofing Police ("DaSilva") have, directly or through others, engaged in conduct in violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), the Contractors' Registration Act, N.J.S.A. 56:8-136 et seq., the Regulations Governing Contractor Registration, N.J.A.C. 13:45A-17.1 et seq. ("Contractor Registration Regulations"), the Regulations Governing Home Improvement Practices, N.J.A.C. 13:45A-16.1 et seq. ("Home Improvement

Regulations”), and the Regulations Governing General Advertising, N.J.A.C. 13:45A-9.1 et seq. (“Advertising Regulations”). A-1 American Construction, A 1 American Chimney, Brick City Chimney Service, Brick City Chimney Service and Cleaning, Roofing Police, Kot and DaSilva failed to file an Answer.

On June 4, 2012, the Court entered default against A-1 American Construction, A 1 American Chimney, Brick City Chimney Service, Brick City Chimney Service and Cleaning, Roofing Police, Kot and DaSilva, pursuant to R. 4:43-1. A-1 American Construction, A 1 American Chimney, Brick City Chimney Service, Brick City Chimney Service and Cleaning, Roofing Police, Kot and DaSilva have not moved to vacate the defaults entered against them.

On ~~\_\_\_\_\_~~, Plaintiffs settled this action as to ~~DaSilva~~ with the filing of a Final Consent Judgment. *RSC*

**THIS COURT NOW FINDS THAT:**

A. There are six (6) defendants remaining in this action: (1) A-1 American Construction; (2) A 1 American Chimney; (3) Brick City Chimney Service; (4) Brick City Chimney Service and Cleaning; (5) Roofing Police; and (6) Kot, (collectively, “Defendants”).

B. The Court has jurisdiction over the subject matter of this action and over the named Defendants.

C. Based upon all of the evidence submitted by Plaintiffs, including the Certification of Nicholas Kant with accompanying exhibits, and the Certification of Loretta Creggett with accompanying exhibits, the Defendants have engaged in conduct which comprises 1,542 violations of the CFA, the Contractors’ Registration Act, the Contractor Registration Regulations, the Home Improvement Regulations, and the Advertising Regulations, with the

following breakdown: (a) Unconscionable Commercial Practices – four hundred ten (410) violations; (b) Deception, False Promises and Misrepresentations – one hundred ninety-nine (199) violations; (c) Using an Unregistered Assumed Name– forty-five (45) violations; (d) Simulating a Government Agency – eleven (11) violations; (e) Misrepresenting Geographic Location – six (6) violations; (f) Contractors’ Registration Act – three hundred fifty-nine (359) violations; (g) Contractor Registration Regulations – two hundred fourteen (214) violations; and (h) Home Improvement Regulations – two hundred seventy-seven (277) violations; (i) Advertising Regulations – twenty-one (21) violations.

**THEREFORE, IT IS** on this 12 day of October, 2012:

1. **ORDERED** that the acts and omissions of Defendants constitute unconscionable commercial practices, deception, false promises and/or misrepresentations, in violation of the CFA, N.J.S.A. 56:8-2; using an unregistered assumed name, in violation of N.J.S.A. 56:1-2; simulating a government agency, in violation of N.J.S.A. 56:8-2.1; misrepresenting geographic location, in violation of N.J.S.A. 56:8-2.25; as well as violations of the Contractors’ Registration Act, N.J.S.A. 56:8-136 et seq., the Contractor Registration Regulations, N.J.A.C. 13:45A-17.1 et seq., the Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq., and the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq.

2. **IT IS FURTHER ORDERED** that Defendants and their owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, assigns and all other persons or entities directly under their control or under common control with them and all other persons or entities in active concert or participation with them are permanently enjoined

from engaging in, continuing to engage in or doing any acts or practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., the Contractors' Registration Act, N.J.S.A. 56:8-136 et seq., the Contractor Registration Regulations, N.J.A.C. 13:45A-17.1 et seq., the Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq., and the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq.

3. **IT IS FURTHER ORDERED** that, pursuant to the CFA, N.J.S.A. 56:8-8, Defendants and their owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, assigns and all other persons or entities directly under their control or under common control with them and all other persons or entities in active concert or participation with them are permanently enjoined from performing home improvements in the State of New Jersey ("State").

4. **IT IS FURTHER ORDERED** that Kot is permanently enjoined from conducting business under an unregistered assumed name, in violation of N.J.S.A. 56:1-2 and N.J.S.A. 56:8-2.

5. **IT IS FURTHER ORDERED** that, pursuant to the CFA, N.J.S.A. 56:8-8, Kot is permanently enjoined from managing or owning any business organization in the State and from serving as an officer, director, trustee, member of an executive board or similar governing body, principal, manager, and/or stockholder owning 10% or more of the aggregate outstanding capital stock of all classes of any corporation doing business in the State.

6. **IT IS FURTHER ORDERED** that, pursuant to the CFA, N.J.S.A. 56:8-8, the corporate charters of A-1 American Construction, A 1 American Chimney, Brick City Chimney

Service, Brick City Chimney Service and Cleaning, and Roofing Police are permanently vacated and/or annulled in the State.

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7. **IT IS FURTHER ORDERED** that, pursuant to the CFA, N.J.S.A. 56:8-8 Defendants, jointly and severally, shall pay to Plaintiffs consumer restitution in the total amount of \$ 150,249<sup>44</sup>/<sub>00</sub> The funds paid by Defendants pursuant to this section of the Final Judgment by Default and Order ("Judgment and Order") shall be used for equitable relief including, but not limited to, consumer redress and any attendant expenses for the administration of any redress fund. If Plaintiffs determine, in their sole discretion, that redress to consumers is wholly or partially impracticable, any funds not so used shall be retained by the Division of Consumer Affairs ("Division") in lieu of redress. Defendants shall have no right to contest the manner of distribution chosen by Plaintiffs. Plaintiffs in their sole discretion may use a designated agent to administer consumer redress.

8. **IT IS FURTHER ORDERED** that, pursuant to the CFA, N.J.S.A. 56:8-13, Defendants, jointly and severally, shall pay to the Division civil penalties in the total amount of

REC  
\$ 7,500,000.00

9. **IT IS FURTHER ORDERED** that, pursuant to the CFA, N.J.S.A. 56:8-19, Defendants, jointly and severally, shall reimburse Plaintiffs for all attorneys' fees incurred in the prosecution of this action, in the total amount of \$ 37,930<sup>50</sup>/<sub>00</sub> REC

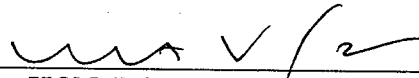
10. **IT IS FURTHER ORDERED** that, pursuant to the CFA, N.J.S.A. 56:8-11, Defendants, jointly and severally, shall reimburse Plaintiffs for their investigative costs, in the total amount of \$ 29,716<sup>86</sup>/<sub>00</sub> RES

11. **IT IS FURTHER ORDERED** that nothing contained in this Judgment and Order, including the Court's determinations herein, shall bind or affect the rights of any persons not a party hereto, or preclude actions against any unnamed parties.

12. **IT IS FURTHER ORDERED** that nothing contained in this Judgment and Order shall bind or affect any position which any party may take in future or unrelated actions.

13. **IT IS FURTHER ORDERED** that this Judgment and Order may be enforced only by Plaintiffs or Defendants or their successors hereto.

14. **IT IS FURTHER ORDERED** that this Court retains jurisdiction for the purpose of enabling Plaintiffs or Defendants to apply to this Court for any such further orders and directions as may be necessary and appropriate for the enforcement of, or compliance with, this Judgment and Order.



HON. ROBERT P. CONTILLO, P.J.CH.

In accordance with the required statement of R. 1:6-2(a), this motion was \_\_\_\_\_ opposed  
 unopposed.