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GENERAL
CASE PROCESSING

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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,

Civil Action

v.

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.

COMPLAINT

Plaintiffs Jeffrey S. Chiesa, Attorney General of the State of New Jersey ("Attorney General"), with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey, and Eric T. Kanefsky, Acting Director of the New Jersey Division of Consumer Affairs ("Director"), with offices located at 124 Halsey Street, Seventh Floor, Newark, New Jersey, by way of Complaint state:

PRELIMINARY STATEMENT

1. Often, home improvements are a costly and necessary expenditure for consumers, who usually lack the expertise and equipment to perform such work. Therefore consumers must rely on contractors to identify and perform the requisite work. When home improvement work is performed in a substandard manner, a consumer's health and well-being might very well be adversely impacted. Under such circumstances, consumers will request that the work be corrected or that a refund be provided, so that the work may be remedied or completed by another contractor.

2. At all relevant times, defendants 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 ("Kot"), and Gabriel R. DaSilva, Jr. ("DaSilva") (collectively, "Defendants"), were engaged in the advertisement, offering for sale, sale and performance of various home improvements, including roof and chimney repair, in the State of New Jersey ("State" or "New Jersey"). In so doing, Defendants, among other things: (a) performed home improvement work in a substandard manner which resulted in dangerous

and/or unsafe conditions for consumers; (b) advertised, offered for sale, sold and/or performed home improvements without being registered as home improvement contractors with the New Jersey Division of Consumer Affairs ("Division"); (c) performed home improvements of poor or substandard quality, in some cases constituting a potential fire and safety hazard, and then refused to make the necessary repairs, despite promises, guarantees, warranties and/or representations that they would return to fix the problems; (d) refused to return consumer deposits for work that was never performed; (e) failed to honor guarantees or warranties provided in a consumer's home improvement contract; (f) commenced work without the necessary State and/or local permits to perform the contracted-for home improvements; and (g) advertised home improvement work through names and website statements that wrongfully implied an affiliation with a government agency, quasi-police agency and/or police-affiliated business. At all relevant times, Defendants have perpetuated their deceptive business practices through the interchangeable use of multiple business entities, names, addresses and phone numbers.

3. By their conduct, Defendants have violated 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"). Plaintiffs commence this action to halt Defendants' deceptive practices and to obtain restitution for aggrieved consumers, among other relief.

PARTIES AND JURISDICTION

4. The Attorney General is charged with the responsibility of enforcing the CFA, the Contractors' Registration Act, and the regulations promulgated thereunder, specifically the Contractor Registration Regulations, the Home Improvement Regulations, and the Advertising Regulations. The Director is charged with the responsibility of administering the CFA, the Contractors' Registration Act, the Contractor Registration Regulations the Home Improvement Regulations and the Advertising Regulations on behalf of the Attorney General.

5. By this action, the Attorney General and Director (collectively, "Plaintiffs") seek injunctive relief and other relief for violations of the CFA, the Contractors' Registration Act, the Contractor Registration Regulations, the Home Improvement Regulations and the Advertising Regulations. Plaintiffs bring this action pursuant to their authority under the CFA, specifically N.J.S.A. 56:8-8, 56:8-11, 56:8-13 and 56:8-19. Venue is proper in Bergen County, pursuant to R. 4:3-2, because it is a county in which the Defendants have maintained a business address and otherwise conducted business.

6. On December 28, 2007, A-1 American Construction was established as a Domestic For-Profit Corporation in the State. Upon information and belief, at all relevant times, A-1 American Construction has maintained business and mailing addresses of: 39-26 Broadway, Fair Lawn, New Jersey 07410 ("39-26 Broadway, Fair Lawn"); 420 Passaic Street, Suite 3H, Hackensack, New Jersey 07601 ("420 Passaic Street, Hackensack"); and 891 Maywood Avenue, Maywood, New Jersey 07607 ("891 Maywood Avenue, Maywood").

7. A-1 American Construction's registered agent in the State is Kot, with a mailing address of 39-26 Broadway, Fair Lawn.

8. On November 6, 2002, A 1 American Chimney was established as a limited liability company in the State. Upon information and belief, at all relevant times, A 1 American Chimney has maintained business and mailing addresses of: 891 Spring Valley Avenue, Maywood, New Jersey 07607 ("891 Spring Valley Avenue, Maywood"); 39-26 Broadway, Fair Lawn; and 420 Passaic Street, Hackensack.

9. A 1 American Chimney's registered agent in the State is "A-1 American Chimney L.L.C.", with a mailing address of 891 Spring Valley Avenue, Maywood.

10. On January 30, 2006, A 1 American Chimney registered "Brick City Chimney Service LLC" as an alternate name.

11. On December 21, 2005, Brick City Chimney Service was established as a limited liability company in the State. Upon information and belief, Brick City Chimney Service has not listed a business or mailing address with the State.

12. Brick City Chimney Service's registered agent in the State is Kot, with a mailing address of 2906 Broadway, Fair Lawn, New Jersey 07410 ("2906 Broadway, Fair Lawn").

13. On December 28, 2007, Brick City Chimney Service and Cleaning was established as a Domestic For-Profit Corporation in the State. Upon information and belief, at all relevant times, Brick City Chimney Service and Cleaning has maintained a business and mailing address of 39-26 Broadway, Fair Lawn.

14. Brick City Chimney Service and Cleaning's registered agent in the State is Kot, with a mailing address of 39-26 Broadway, Fair Lawn.

15. On July 16, 2008, Roofing Police was established as a Domestic For-Profit Corporation in the State. Upon information and belief, at all relevant times, Roofing Police has

maintained a business and mailing address of 331 South Avenue, Garwood, New Jersey 07027 ("331 South Avenue, Garwood").

16. Roofing Police's registered agent in the State is Kot, with a mailing address of 326 West Westfield Avenue, Roselle Park, New Jersey 07204 ("326 West Westfield Avenue, Roselle Park").

17. Upon information and belief, Roofing Police has also conducted business using the name "Roofing Squad".

18. Upon information and belief, at all relevant times, defendant Kot has been an 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, and has controlled, directed and participated in the management and operation of those entities.

19. Kot has also traded as "A-1 American Construction" [trade name] and "A-1 American".

20. On July 6, 2006, A-1 American Construction [trade name] was registered as a trade name in Bergen County. The Certificate of Trade Name reflects a business address of 39-26 Broadway, Fair Lawn and identifies the owner as Kot, with a mailing address of 511 Summit Avenue, Westfield, New Jersey 07090 ("511 Summit Avenue, Westfield").

21. On October 17, 2001, A-1 American was registered as a trade name with Bergen County. The Trade Name Certificate identifies a business address of 715 Cedar Street, Lyndhurst, New Jersey 07070 ("715 Cedar Street, Lyndhurst") and identifies the owner as Kot, with a mailing address of 715 Cedar Street, Lyndhurst.

22. Upon information and belief, at varying times, Kot has also conducted business using the following fourteen (14) assumed names: 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. None of these names has been registered in the State as a business entity or trade name.

23. Upon information and belief, at varying times, Kot has maintained business and mailing addresses of: 331 South Avenue, Garwood; 1 Ferrary Place, #D, Woodland Park, New Jersey 07424 ("1 Ferrary Place, Woodland Park"); P.O. Box 1041, Cranford, New Jersey 07016 ("P.O. Box 1041, Cranford"); 247 Willow Avenue, Garwood, New Jersey 07027 ("247 Willow Avenue, Garwood"); 39-26 Broadway, Fair Lawn; 420 Passaic Street, Hackensack; 891 Maywood Avenue, Maywood; 891 Spring Valley Avenue, Maywood; 326 West Westfield Avenue, Roselle Park; 511 Summit Avenue, Westfield; 715 Cedar Street, Lyndhurst; 348 South Avenue, Westfield, New Jersey 07090 ("348 South Avenue, Westfield"); 2906 Broadway, Fair Lawn; and 52 Argyle Place, North Arlington, New Jersey 07031.

24. Upon information and belief, at all relevant times, defendant DaSilva has been an owner, owner-operator, president, officer, manager and/or director of A-1 American Construction, A 1 American Chimney and/or Roofing Police, and has controlled, directed and participated in the management and operation of those entities.

25. Upon information and belief, at varying times, DaSilva has maintained business and mailing addresses of: 331 South Avenue, Garwood; 1 Ferrary Place, Woodland Park; P.O.

Box 1041, Cranford; 247 Willow Avenue, Garwood; 39-26 Broadway, Fair Lawn; 420 Passaic Street, Hackensack; 891 Maywood Avenue, Maywood; 891 Spring Valley Avenue, Maywood; 326 West Westfield Avenue, Roselle Park; 511 Summit Avenue, Westfield; 715 Cedar Street, Lyndhurst; 348 South Avenue, Westfield; 225 Market Street, Paterson, New Jersey 07505; and 251 Lexington Avenue, Paterson, New Jersey 07502.

26. John and Jane Does 1 through 10 are fictitious individuals meant to represent the owners, officers, directors, shareholders, founders, managers, agents, servants, employees, and/or representatives of A-1 American Construction, A 1 American Chimney, Brick City Chimney Service, Brick City Chimney Service and Cleaning, Roofing Police, A-1 American Construction [trade name] and/or A-1 American who have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

27. XYZ Corporations 1 through 10 are fictitious corporations meant to represent any additional business entities who have been involved in the conduct that gives rise to the Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

GENERAL ALLEGATIONS COMMON TO ALL COUNTS

28. Since at least July 2004, Defendants have been engaged in the advertisement, offering for sale, sale and performance of home improvements in the State including, but not limited to, roof and chimney repair.

A. Defendants' Advertising Generally:

29. At varying times, Defendants maintained a website at www.A-1AmericanChimney.com through which they advertised home improvements including, but not limited to, "nearly any type of roofing, chimney and gutter service" ("A-1 American Chimney Website").

30. The A-1 American Chimney Website is not currently active.

31. At least in April 2007 and April 2008, the A-1 American Chimney Website advertised home improvements under the name "A-1 American Construction LLC", however, A-1 American Construction was not a limited liability company, instead, in April 2007 it was registered as a trade name only, and in April 2008 it was registered as a corporation.

32. Upon information and belief, Defendants have represented on business cards and on the A-1 American Chimney Website that A-1 American Construction is a member of the Better Business Bureau ("BBB").

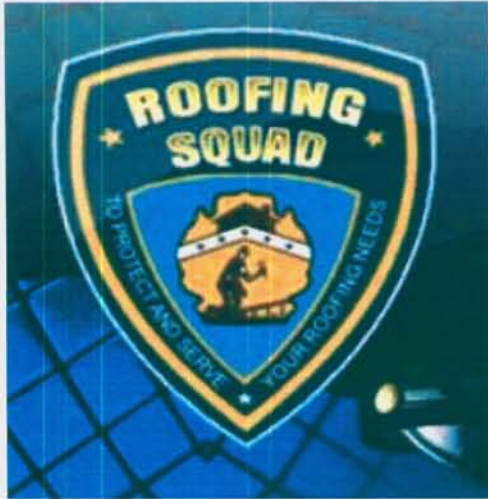
33. At all relevant times, A-1 American Construction was not a member of the BBB.

B. Defendants' Deceptive Marketing Of Roofing Police, Roofing Squad, Chimney Squad And Diamond Roofing As Government Agencies, Quasi-Police Agencies And/Or Police-Affiliated Businesses:

34. At all relevant times, Defendants have marketed Roofing Police, Roofing Squad, Chimney Squad and/or Diamond Roofing as government agencies, quasi-police agencies and/or police-affiliated businesses.

35. Upon information and belief, Roofing Police, Roofing Squad, Chimney Squad and Diamond Roofing are not government agencies, quasi-police agencies and/or police affiliated businesses.

36. Defendants have used a logo resembling a police shield or badge in advertisements for Roofing Police, Roofing Squad and/or Chimney Squad.



37. The shield logo that has been used to advertise Roofing Squad states: "TO PROTECT AND SERVE YOUR ROOFING NEEDS".

38. The shield logo that has been used to advertise Chimney Squad states: "TO PROTECT AND SERVE YOUR CHIMNEY NEEDS".

39. Defendants have used a logo resembling a police shield or badge in home improvement contracts/estimates that bore the name Roofing Squad.

40. At all relevant times, Defendants have advertised home improvements under the name Roofing Squad through the website located at www.theroofingsquad.com ("Roofing Squad Website #1").

41. Roofing Squad Website #1 is not currently active.

42. Roofing Squad Website #1 included the following statement:

The Roofing Squad is a family owned and operated business with a law enforcement twist. In addition to one of the company's owners, we are proud to have several active law enforcement officers serving in different positions on our staff. We approach our business the same way our officers approach their profession, with honesty, integrity and a commitment to "*protect and serve*".

(Emphasis in original.)

43. Roofing Squad Website #1 further included the following statement:

This commitment is further reflected in our distinctive black and white "patrol" cars. If you have spotted one of our vehicles, you probably either looked down at your speedometer to check your speed or wondered why that squad car had a 28 foot ladder on top of it! We admit it's an attention-getting device we use to stand out in a very competitive field. But we also like the statement it makes and know that we back it up with the knowledge, honesty and excellence in service that our vehicles represent.

When we decided to start **The Roofing Squad**, we sat down and talked about those things we felt were the most important for us and our customers. . . .

(Emphasis in original.)

44. Roofing Squad Website #1 included photographs of vehicles that had been painted to resemble police cruisers, specifically a sedan ("Roofing Squad Sedan") and a pickup truck ("Roofing Squad Pickup Truck").



45. At all relevant times, Defendants have advertised home improvements under the name Roofing Squad through another website, located at www.newjerseyroofing.org ("Roofing Squad Website #2"), which includes a photograph of the Roofing Squad Pickup Truck and statements nearly identical to the statements on Roofing Squad Website #1, as set forth in paragraphs 42 and 43 above.

46. Upon information and belief, the Roofing Squad Sedan is registered to DaSilva.

47. At all relevant times, Defendants have advertised home improvements under the name Roofing Police through the website located at www.theroofingpolice.com ("Roofing Police Website").

48. The Roofing Police Website includes statements nearly identical to the statements on Roofing Squad Website #1 and Roofing Squad Website #2, as set forth in paragraphs 42 and 43 above, but referencing Roofing Police rather than Roofing Squad:

49. At least as of March 2012, Roofing Police has also advertised through Hometown Quarterly, which advertisement states:

Why Call The Roofing Police? We have several active law enforcement officers on our team, so you really are hiring the most reliable group to update, repair or fix your roof. You may have seen our black and white "patrol" cars around town as we service roofs all over NJ since 1992. We're family run so we're a company that understands your busy lifestyle and the importance of feeling well cared for.

50. At all relevant times, Kot has advertised home improvements under the name Diamond Roofing at the websites located at www.diamondroofing-nyc.com ("Diamond Roofing Website #1) and www.diamondroofingnyc.com ("Diamond Roofing Website #2).

51. Roofing Squad Website #1 and Roofing Squad Website #2 state that one of the owners of Roofing Squad is an active law enforcement officer.

52. The Roofing Police Website states that one of the owners of Roofing Police is an active law enforcement officer.

53. In at least one instance, Kot represented to a consumer that he is a police officer and signed a home improvement contract that bore the name Roofing Police and included a reference to the Roofing Squad Website #1.

54. Diamond Roofing Website #1 includes a video which states that the "owners of Diamond Roofing" are "members of law enforcement."

55. Upon information and belief, Kot is not and/or never has been a police officer.

56. Upon information and belief, DaSilva is not and/or never has been a police officer.

C. Defendants' Use Of Assumed Business Names:

57. Upon information and belief, Defendants have advertised, offered for sale and/or sold home improvements through the use of the following assumed business names, which Defendants have not registered in the State as a corporations, limited liability companies, trade names and/or in any other capacity: (a) Roofing Squad; (b) Chimney Squad; (c) Brick City; (d) Brick City Chimney & Roofing Services; (e) A-1 American Masonry; (f) A-1 American Masonry Services; (g) A-1 American Chimney Service; (h) A-1 American Contracting; (i) A-1 American Roofing; (j) A-1 American Gutters; (k) A-1 American Siding; (l) A-1 Affordable Construction; (m) A Above American; (n) A Above Brick City; and (o) Diamond Roofing.

D. Defendants' Business Practices Generally:

58. At varying times, Defendants performed home improvements in a substandard manner and failed to make the necessary corrective repairs including, but not limited to: (a) roof

repair/installation, after which the roof leaked, but which Defendants refused to fix; (b) siding repair/installation, after which the siding blew or fell off, but which Defendants refused to fix; and (c) improper chimney repair constituting a potential fire and safety hazard, but which Defendants refused to fix.

59. Although Defendants included warranties and/or guarantees in their home improvement contracts, they failed to make the necessary repairs to home improvements performed in a substandard manner.

60. At varying times, Defendants either failed to provide consumers with a written copy of all guarantees or warranties made with respect to home improvements or provided guarantees or warranties that were not specific, clear and definite.

61. When consumers called Defendants about the substandard work, Defendants represented that they would return and make the necessary corrective repairs, but then failed to do so.

62. Defendants took consumer deposits, failed to perform the home improvement work and then refused to return the deposits.

63. At varying times, Defendants commenced home improvements without the necessary State and/or local permits to perform the contracted-for work.

64. At varying times, Defendants sold and performed unnecessary home improvements (such as chimney repairs).

65. At varying times, Defendants caused damage to a consumer's home while performing home improvements and then failed to fix, clean, or compensate for the damage (e.g.,

damage to the ironwork in front of a consumer's home caused by Defendants dropping materials from the consumer's roof).

66. Defendants have used a truck with lettering "Brick City Chimney & Roofing Services" in their performance of home improvements ("Brick City Chimney & Roofing Services Truck"), which stated that Brick City Chimney & Roofing Services is licensed, when in fact it was not registered with the Division as a home improvement contractor nor listed as an alternate name for an entity that was registered.

67. Further, the Brick City Chimney & Roofing Services Truck included lettering stating: (a) "Affiliated with A-1 American Chimney"; (b) an address of "39-26 Broadway, Fairlawn, NJ 07401"; (c) phone numbers of 866-214-6600, 908-222-0073, and 201-599-2969; and (d) the A-1 American Chimney Website.

68. The Roofing Squad Sedan states that Roofing Squad is licensed.

69. In advertising, offering for sale, selling and performing home improvements, at varying times, Defendants interchangeably used the following corporations, limited liability companies, trade names and unregistered business names, none of which was registered with the Division as a home improvement contractor nor listed as an alternate name for an entity that was registered: (a) A-1 American Construction; (b) A 1 American Chimney; (c) Brick City Chimney Service (d) Brick City Chimney Service and Cleaning; (e) A-1 American; (f) Roofing Squad (g) Chimney Squad (h) Brick City (i) Brick City Chimney & Roofing Services; (j) A-1 American Masonry; (k) A-1 American Masonry Services; (l) A-1 American Chimney Service; (m) A-1 American Contracting; (n) A-1 American Roofing; (o) A-1 American Gutters; (p) A-1 American

Siding; (q) A-1 Affordable Construction; (r) A Above American; (s) A Above Brick City; and (t) Diamond Roofing.

70. At varying times, advertisements for A-1 American Construction [trade name] failed to include the home improvement contractor registration number that had been assigned to A-1 American Construction [trade name].

71. At varying times, advertisements for Roofing Police failed to include the home improvement contractor registration number that had been assigned to Roofing Police.

72. In advertising, offering for sale, selling and/or performing home improvements, Defendants interchangeably used certain phone numbers with their interchangeable business entities, trade names and unregistered assumed business names including, but not limited to, the following non-comprehensive examples:

a. 201-599-2969 (home improvement contracts for A-1 American Construction [unregistered assumed business name], home improvement contracts for A-1 American Construction [trade name], home improvement contracts for A-1 American Chimney Service, home improvement contracts for Roofing Police, Roofing Police Website, Brick City Chimney & Roofing Services Truck);

b. 866-214-6600 (advertisement for A-1 American Masonry, advertisement for A-1 American Masonry Services, advertisement for A Above American; advertisement for A-1 Affordable Construction, advertisement for A-1 American Chimney Service, home improvement contracts for A-1 American Construction [unregistered assumed business name], home improvement contracts for A-1 American Construction [trade name], home improvement contracts for A-1 American Chimney Service, home improvement contracts for Roofing Police, Brick City Chimney & Roofing Services Truck); and

c. 908-222-0073 (advertisement for Roofing Squad, advertisement for Chimney Squad, advertisement for A-1 American Masonry, advertisement for A-1 American Masonry Services, home improvement contracts for A-1 American Construction [trade name], A-1 American Chimney Website, Roofing Police Website, Brick City Chimney & Roofing Services Truck).

73. In advertising, offering for sale, selling and/or performing home improvements, Defendants interchangeably used certain addresses with their interchangeable business entities, trade names and unregistered assumed business names including, but not limited to, the following non-comprehensive example: 39-26 Broadway, Fair Lawn (home improvement contracts for A-1 American Construction [unregistered assumed business name], home improvement contracts for A-1 American Construction [trade name], A-1 American Construction main business address listed in Certificate of Formation, home improvement contracts for A-1 American Chimney Service, Brick City Chimney Service and Cleaning main business address listed in Certificate of Formation, Brick City Chimney & Roofing Services Truck).

74. In their home improvement contracts, Defendants interchangeably used different entities and business names including, but not limited to, the examples listed in Section E below.

75. Upon information and belief, Kot has used a fake name or names to conduct business with consumers including, but not limited to, "John Luciano."

76. Upon information and belief, DaSilva has claimed that A-1 American Construction and A 1 American Chimney are not associated with each other, when in fact they have conducted business as one entity.

E. Defendants' Home Improvement Contracts:

77. At varying times, Defendants provided consumers with home improvement contracts that did not include: (a) a legal name (i.e., use of unregistered assumed business names); (b) a business address; (c) the legal name and/or address of the sales representative or agent who solicited or negotiated the contracts for Defendants; (d) a description of the work to be done and the principal products and materials to be used or installed in performance of the

contracts; (e) the total price or other consideration to be paid by the buyer, including the hourly rate for labor and all other terms and conditions affecting price; (f) the toll-free telephone number provided by the Director of the Division for consumers making inquiries concerning home improvement contractors; and/or (g) dates for the commencement and/or completion of the home improvement work.

78. At varying times, Defendants provided consumers with home improvement contracts that were not signed on behalf of Defendants and/or the consumers.

79. At varying times, Defendants provided consumers with home improvement contracts that did not include the "Notice to Consumer" required cancellation notice.

80. At varying times, Defendants failed to provide consumers with a copy of their certificate of commercial general liability insurance.

81. At varying times, Defendants represented in home improvement contracts that they were licensed, when in fact they were not registered with the Division as home improvement contractors.

82. Home improvement contracts that bore the name Roofing Police included references to the following: (a) "Hudson: (201) 319-0099"; and (b) "Trenton: (609) 252-077099."

83. Home improvement contracts that bore the name Brick City included references to the following: (a) "Hudson: 201 319-0099"; (b) "South Jersey: 908 222-0073"; and (c) "Trenton: 609-252-0770."

84. Home improvement contracts that bore the name A-1 American Const. included references to the following: (a) "Hudson: 201 319-0099"; (b) "South Jersey: 908 222-0073"; and (c) "Trenton: 609-252-0770."

85. Upon information and belief, Defendants never maintained a business address in Hudson County, South Jersey or Trenton.

86. In connection with their home improvement contracts, Defendants used several different corporations, limited liability companies, trade names and/or unregistered business names interchangeably, sometimes in connection with a single consumer, including, but not limited to the following examples:

a. Home improvement contracts that bore the names "A-1 American Const.", "Brick City" and "Roofing Police" were essentially identical, but for the name of the business.

b. At varying times, Defendants provided consumers with home improvement contracts that bore the name "A-1 American Const." and included a reference to the A-1 American Chimney Website.

c. A home improvement contract that was signed by Kot, bore the name Brick City, included a reference to the A-1 American Chimney Website and the home improvement contractor registration number for A-1 American Construction [trade name], and was paid for with a check written to the order of "A-1 American" and endorsed by Roofing Police.

d. A home improvement contract that bore the name Brick City, included a reference to the A-1 American Chimney Website and the home improvement contractor registration number for A-1 American Construction [trade name], and was paid for by a check written to and endorsed by "A-1 American Construction".

e. In connection with the home improvement contract referenced in paragraph 84d. above, Defendants provided the consumer with a business card that included: (a) a reference to A-1 American Construction in large letters; and (b) the home improvement contractor registration number for A-1 American Construction [trade name].

f. Consumers' checks written to the order of A-1 American Construction have been endorsed by "A 1 American Chimney LLC".

g. Although Defendants provided to a consumer a home improvement contract that bore the name "A-1 American Const." and included a reference to the A-1 American Chimney Website, the construction permit for the contracted-for work was obtained under another business name, specifically "A Safeway Improvements".

h. Defendants provided a consumer with a home improvement contract that bore the name "Brick City", and included a reference to the A-1 American Chimney Website as well as a typewritten prompt for "Contractor: _____", with the handwritten response of "Roofing Police".

i. Defendants provided a consumer with a home improvement contract that included a reference to the A-1 American Construction home improvement contractor registration number, a typewritten prompt for "Contractor: _____", with the handwritten response of "Brick City" and a statement on the back that notices should be sent to Roofing Police.

j. Defendants provided a consumer with a home improvement contract that bore the name "Roofing Squad" and included a typewritten prompt for "Contractor: _____", with the handwritten response of "Roofing Police".

k. Defendants issued to the same consumer multiple home improvement contracts that denoted different business entities and names, including: (a) a home improvement contract that bore the name Roofing Police and included a reference to the Roofing Squad Website #1; (b) a home improvement contract that bore the name Roofing Squad; and (c) a home improvement contract that bore the name Brick City and included a reference to the A-1 American Chimney Website.

87. At varying times, Defendants provided consumers with home improvement contracts that bore the name Roofing Police and included a reference to the home improvement contractor registration number for A-1 American Construction [trade name], even though Roofing Police was registered with the Division under its own home improvement contractor registration number and was not listed as an alternate name for A-1 American Construction [trade name].

88. Home improvement contracts/estimates that bore the name Roofing Squad have included the following typed notations: "Licensed, Insured & Bonded" and "Registration Number: Pending".

89. Upon information and belief, Roofing Squad has never: (a) been registered to perform home improvements in the State; (b) had a pending application to be registered as a home improvement contractor in the State; (c) submitted an application to be registered as a home improvement contractor in the State; or (d) been listed as an alternate business name for another home improvement contractor registered in the State.

90. At varying times, Defendants provided consumers with home improvement contracts that bore the name "Brick City" and included a reference to the home improvement contractor registration number for A-1 American Construction [trade name], even though "Brick City" was not listed as an alternate name for A-1 American Construction [trade name] and "Brick City" was never registered with the Division as a home improvement contractor.

91. At varying times after A-1 American Construction [trade name] was registered with the Division as a home improvement contractor, home improvement contracts sold under the name "A-1 American Construction" did not include the home improvement contractor registration number that had been assigned to A-1 American Construction [trade name].

**F. A 1 American Construction [trade name]
Home Improvement Contractor Registration:**

92. On or about October 4, 2005, Kot submitted to the Division a Home Improvement Contractor Application for Initial Registration ("HIC Registration Application") under the name

"A-1 American Const." ("October 2005 A-1 American Const. HIC Registration Application"), and identified himself as the 100% owner.

93. Kot paid the registration fee associated with the October 2005 A-1 American Const. HIC Registration Application by a check which included the name "A 1 American Chimney LLC" and an address of 891 Spring Valley Avenue, Maywood.

94. The October 2005 A-1 American Const. HIC Registration Application included a Certificate of Liability Insurance in the name of insured "Anthony Esposito t/a A-1 American Contracting".

95. On or about November 17, 2005, the Division sent a Deficiency Notice to A-1 American Construction [trade name] based upon an incomplete Disclosure Statement, and requested a copy of the applicant's business formation papers (i.e., Certificate of Incorporation, trade name papers).

96. On December 15 2005, the Division received a copy of the Trade Name Certificate for A-1 American.

97. On or about May 5, 2006, the Division sent a Deficiency Notice to A-1 American Construction [trade name], based upon: (a) the failure to answer Question 7b concerning whether the applicant is the subject of a child support warrant; (b) the expiration of the Certificate of Liability Insurance; and (c) and the Trade Name Certificate for A-1 American having a name and addresses inconsistent with the October 2005 A-1 American Const. HIC Registration Application.

98. In or about May 2006, Kot submitted the following to the Division: (a) page 2 from a blank HIC Registration Application with just Question 7b checked "No"; (b) a Disclosure

Statement with the applicant's name identified as "John Kot" and checked "No" regarding convictions to be disclosed; and (c) a Certificate of Liability Insurance with the insured identified as "John Kot d/b/a A-1 American Contracting" with an address 39-26 Broadway, Westfield [sic], New Jersey 07090.

99. On or about June 30, 2006, Kot submitted to the Division a second HIC Registration Application on behalf of A-1 American Construction [trade name] ("June 2006 A-1 American Construction HIC Registration Application") and identified himself as the 100% owner.

100. The June 2006 A-1 American Construction HIC Registration Application included an altered copy of the Trade Name Certificate for A-1 American, with the word "Construction" written in after the words "A-1 American".

101. On or about July 6, 2006, Kot submitted to the Division a copy of a newly-filed Certificate of Trade Name for A-1 American Construction [trade name].

102. On July 10, 2006, A-1 American Construction [trade name] was registered with the Division as a home improvement contractor.

103. In the Disclosure Statements submitted to the Division in connection with the October 2005 A-1 American Const. HIC Registration Application and the June 2006 A-1 American Construction HIC Registration Application (collectively, "A-1 American Construction [trade name] HIC Registration Applications"), Kot responded "No" to the question as to whether the "applicant or any of its officers, directors, principals or persons with an ownership of 10 percent or more in the applicant" had been convicted of certain crimes (i.e., crimes of moral turpitude and/or enumerated crimes).

104. Kot had been convicted of certain crimes (i.e., crimes of moral turpitude and/or enumerated crimes) at the time he submitted the A-1 American Construction [trade name] HIC Registration Applications including, but not limited to: robbery (1989) and receiving stolen property (1993).

105. On December 31, 2010, the registration as a home improvement contractor of A-1 American Construction [trade name] expired, and it has not been renewed or reinstated.

106. Defendants advertised, sold and/or performed home improvements under the name "A-1 American Construction" prior to when A-1 American Construction [trade name] was registered with the Division as a home improvement contractor.

107. Kot did not inform the Division that on December 28, 2007, A-1 American Construction was established as a Domestic For-Profit Corporation in the State.

G. Roofing Police Home Improvement Contractor Registration:

108. On or about December 2, 2009, Kot submitted to the Division an HIC Registration Application on behalf of Roofing Police ("December 2009 Roofing Police HIC Registration Application").

109. The December 2009 Roofing Police HIC Registration Application identified Kot as the 100% owner of Roofing Police and listed a principal address of 348 South Avenue, Westfield.

110. On or about January 29, 2010, the Division sent a Deficiency Notice to Roofing Police ("January 2010 Deficiency Notice"), based upon the following: (a) failure to answer Question 2 as to alternate or fictitious name; (b) failure to answer Question 4 as to an agent to accept service of papers, (c) failure to answer Question 9 as to ownership information, and (d)

failure to answer Question 11, among other things, as to violations of the CFA and/or other statutes or regulations administered by the Division.

111. On or about February 16, 2010, apparently in response to the January 2010 Deficiency Notice, Kot submitted to the Division the first three pages of an HIC Registration Application on behalf of Roofing Police ("February 2010 Roofing Police HIC Registration Application").

112. The February 2010 Roofing Police HIC Registration Application identified Kot as the 100% owner and listed a principal address of 348 South Avenue, Westfield.

113. On March 2, 2010, Roofing Police was registered with the Division as a home improvement contractor, and such registration is currently active.

114. In the Disclosure Statement submitted to the Division in connection with the December 2009 Roofing Police HIC Registration Application, Kot responded "No" to the question as to whether the "applicant or any of its officers, directors, principals or persons with an ownership of 10 percent or more in the applicant" had been convicted of certain crimes (i.e., crimes of moral turpitude and/or enumerated crimes).

115. Kot had been convicted of certain crimes (i.e., crimes of moral turpitude and/or enumerated crimes) at the time he submitted the December 2009 Roofing Police HIC Registration Application including, but not limited to: robbery (1989) and receiving stolen property (1993).

116. In the February 2010 Roofing Police HIC Registration Application, Kot replied "None" as to Question 2, seeking identification of all other names under which Roofing Police

conducted business, even though Roofing Police has conducted business under the name Roofing Squad.

117. On or about December 23, 2010, Gabriel DaSilva sent a letter on behalf of Roofing Police to the Division, stating that Roofing Police had moved to a new address, 331 South Avenue, Garwood.

118. Defendants included the address 331 South Avenue, Garwood in home improvement contracts bearing the name Roofing Police prior to disclosing the address change to the Division.

COUNT I

VIOLATION OF THE CFA BY DEFENDANTS (UNCONSCIONABLE COMMERCIAL PRACTICES)

119. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 118 above as if more fully set forth herein.

120. The CFA, N.J.S.A. 56:8-2, prohibits:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby...

121. The CFA defines “merchandise” as including “any objects, wares, goods, commodities, services or anything offered, directly or indirectly to the public for sale.” N.J.S.A. 56:8-1(c).

122. At all relevant times, Defendants have been engaged in the advertisement and sale of merchandise within the meaning of N.J.S.A. 56:8-1(c), specifically chimney and roof repairs.

123. In the operation of their businesses, Defendants have engaged in the use of unconscionable commercial practices, deception, false promises and/or misrepresentations.

124. Defendants have engaged in unconscionable commercial practices including, but not limited to, the following:

- a. Performing home improvement work in a substandard manner which resulted in dangerous and/or unsafe conditions for consumers;
- b. Obtaining a construction permit under another business's name, specifically A Safeway Improvements;
- c. Failing to perform the work specified in a consumer's home improvement contract;
- d. Failing to honor guarantees or warranties provided in a consumer's home improvement contract;
- e. Performing home improvements of poor or substandard quality and then failing to make the necessary corrective repairs;
- f. Failing to provide consumers with a copy of all guarantees or warranties at the time Defendants presented a price for the paving work;
- g. Causing damage to a consumer's home while performing home improvements and then failing to fix, clean, or compensate for the damage;
- h. Taking consumer deposits and failing to provide the contracted-for home improvements;
- i. Failing to perform and/or complete the contracted for home improvements and then failing to provide a refund;
- j. Failing to register with the Division as a home improvement contractor and then advertising and/or soliciting consumers for home improvement work;

- k. Performing home improvement work without being registered by the Division as a home improvement contractor;
- l. Accepting payment for home improvement work that Defendants never completed;
- m. Selling and/or performing unnecessary home improvements (such as chimney repairs);
- n. Commencing work without the necessary State and/or local permits to perform the contracted for home improvement;
- o. Refusing to issue a refund when so requested by consumers after Defendants failed to perform the contracted-for home improvement work; and
- p. Failing to respond to consumers' inquiries or complaints in a timely manner or at all.

125. Each unconscionable commercial practice by Defendants constitutes a separate violation under the CFA, N.J.S.A. 56:8-2.

COUNT II

VIOLATION OF THE CFA BY DEFENDANTS (DECEPTION, FALSE PROMISES AND MISREPRESENTATIONS)

126. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 125 above as if more fully set forth herein.

127. Defendants' conduct in violation of the CFA includes, but is not limited to, the following acts of deception, false promises and/or misrepresentations including, but not limited to:

- a. Representing to consumers that Defendants would return to consumers' homes to perform corrective repairs and then failing to do so;

- b. Misrepresenting that they are licensed and/or that a home improvement contractor registration number had been assigned;
- c. Misrepresenting, in home improvement contracts, the locations where Defendants operate from and/or have offices;
- d. Misrepresenting that A-1 American Construction is a member of the BBB;
- e. Giving consumers false individual and business names;
- f. Claiming that A-1 American Construction and A 1 American Chimney are not associated with each other, when in fact they have conducted business as one entity;
- g. Representing that Roofing Police, Roofing Squad, Chimney Squad and/or Diamond Roofing are government agencies, quasi-police agencies and/or police-affiliated businesses, when such is not the case;
- h. Misrepresenting that the owner[s] of Roofing Police, Roofing Squad and/or Diamond Roofing is/are "members of law enforcement" or an "active law enforcement officer";
- i. Misrepresenting that there is a pending registration application for Roofing Squad; and
- j. Using a home improvement contractor registration number that had been assigned to another entity (e.g., home improvement contracts bearing the name Brick City included the home improvement contractor registration number for A-1 American Construction [trade name], home improvement contracts bearing the name Roofing Police included the home improvement contractor registration number for A-1 American Construction [trade name]); and
- k. Misrepresenting in the A-1 American Chimney Website that A-1 American Construction is a limited liability company.

128. Each act of deception, false promise and/or misrepresentation by Defendants constitutes a separate violation under CFA, N.J.S.A. 56:8-2.

COUNT III

VIOLATION OF THE CFA BY KOT AND DASILVA (USING AN UNREGISTERED ASSUMED NAME)

129. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 128 above as if set forth more fully herein.

130. N.J.S.A. 56:1-2 prohibits a person conducting business under an assumed name that is not registered, and provides, in pertinent part:

No person shall conduct or transact business under any assumed name, or under any designation, name or style, corporate or otherwise, other than the name or names of the individual or individuals conducting or transacting such business, unless such person shall file a certificate in the office of the clerk of the county or counties in which such person conducts or transacts, or intends to transact, such business, together with a duplicate thereof for filing in the office of the Secretary of State, as provided in section 56:1-3 of this Title.

131. Pursuant to N.J.S.A. 56:1-5, corporations are excepted from the requirements of N.J.S.A. 56:1-2.

132. Kot has conducted business under assumed names that he has not registered in the State as a business entity or trade name including, but not limited to, 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.

133. DaSilva has conducted business under assumed names that he has not registered in the State as a business entity or trade name including, but not limited to, Roofing Squad.

134. Kot and DaSilva are not corporations and are not exempt from the requirements of N.J.S.A. 56:1-2.

135. The continued use by Kot and DaSilva of unregistered assumed business names constitute unconscionable commercial practices in violation of the CFA, N.J.S.A. 56:8-2.

COUNT IV

VIOLATION OF THE CFA BY ROOFING POLICE, KOT AND DASILVA (SIMULATING A GOVERNMENT AGENCY)

136. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 135 above as if set forth more fully herein.

137. The CFA prohibits an operation simulating a government agency, as follows:

It shall be an unlawful practice for any person to operate under a name or in a manner which wrongfully implies that such person is a branch of or associated with any department or agency of the Federal Government or of this State or any of its political subdivisions, or use any seal, insignia, envelope, or other format which simulates that of any governmental department or agency.

[N.J.S.A. 56:8-2.1.]

138. Roofing Police, Kot and/or DaSilva have wrongfully implied that Roofing Police, Roofing Squad, Chimney Squad and Diamond Roofing are government agencies through the use, in advertisements, contracts, estimates and/or otherwise, of logos resembling a police shield or badge, vehicles resembling police cruisers, and statements concerning law enforcement officers and “a law enforcement twist.”

139. Each instance where Roofing Police, Kot and/or DaSilva simulated a government agency constitutes a separate violation of the CFA, N.J.S.A. 56:8-2 and N.J.S.A. 56:8-2.1.

COUNT V

VIOLATION OF THE CFA BY KOT **(MISREPRESENTING GEOGRAPHIC LOCATION)**

140. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 139 above as if set forth more fully herein.

141. The CFA, specifically N.J.S.A. 56:8-2.25(a), prohibits a person, who is conducting business under a registered trade name, from misrepresenting that person's geographic location, as follows:

It shall be an unlawful practice for any person conducting or transacting business under an assumed name and filing a certificate pursuant to R.S.56:1-2 to intentionally misrepresent that person's geographic origin or location or the geographic origin or location of any merchandise.

142. On July 6, 2006, A-1 American Construction [trade name] was registered with Bergen County as a trade name in the State. The listed business address is 39-26 Broadway, Fair Lawn. The listed owner is Kot, at 511 Summit Avenue, Westfield.

143. On December 28, 2007, A-1 American Construction was established as a Domestic For-Profit Corporation in the State.

144. Between July 6, 2006 and December 28, 2007, when Kot was transacting business as A-1 American Construction [trade name], Kot intentionally misrepresented his geographic location by listing on home improvement contracts the names of several different locations (i.e., municipalities, counties), with a different phone number beside each location, when Kot did not have an office in those locations. For example, home improvement contracts, dated November 28, 2007, December 17, 2007 and November 27, 2007, bearing the name A-1 American Const.

included references to the following locations where, upon information and belief, Kot did not have an offices: (a) “Hudson: 201 319-0099”; (b) “South Jersey: 908 222-0073”; and (c) “Trenton: 609-252-0770.”

145. Kot’s conduct constitutes multiple violations of N.J.S.A. 56:8-2.25, which constitute multiples violations of the CFA, N.J.S.A. 56:8-2.

COUNT VI

VIOLATION OF THE CONTRACTORS' REGISTRATION ACT BY DEFENDANTS

146. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 145 above as if set forth more fully herein.

147. The Contractors’ Registration Act, among other things, governs the registration of home improvement contractors with the Division.

148. At all relevant times, Defendants have been “Contractor[s]” within the definition of the Contractors’ Registration Act, N.J.S.A. 56:8-137.

149. At all relevant times, Defendants have offered to perform and performed “Home Improvement[s]” within the definition of the Contractors’ Registration Act, N.J.S.A. 56:8-137.

150. At all relevant times, Defendants have entered into “Home Improvement Contract[s]” within the definition of the Contractors’ Registration Act, N.J.S.A. 56:8-137.

151. The Contractors’ Registration Act provides, in pertinent part:

a. On or after December 31, 2005, no person shall offer to perform, or engage, or attempt to engage in the business of making or selling home improvements unless registered with the Division of Consumer Affairs in accordance with the provision of this act.

[N.J.S.A. 56:8-138(a).]

152. The Contractors' Registration Act further provides that:

Except for persons exempted pursuant to section [N.J.S.A. 56:8-140], any person who advertises in print or puts out any sign or card or other device on or after December 31, 2005, which would indicate to the public that he is a contractor in New Jersey, or who causes his name or business name to be included in a classified advertisement or directory in New Jersey on or after December 31, 2005, under a classification for home improvements covered by this act, is subject to the provisions of this act. This section shall not be construed to apply to simple residential alphabetical listings in standard telephone directories.

[N.J.S.A. 56:8-139.]

153. At all relevant times, Defendants were not exempt from the Contractors' Registration Act pursuant to N.J.S.A. 56:8-140.

154. The Contractors' Registration Act requires that certain information must be displayed by the Contractor and provides, in pertinent part:

All registrants shall prominently display their registration numbers within their places of business, in all advertisements distributed within this State, on business documents, contracts and correspondence with consumers of home improvement services in this State, and on all commercial vehicles registered in this State and leased or owned by registrants and used by registrants for the purpose of providing home improvements, except for vehicles leased or rented to customers of registrants by a registrant or any agent or representative thereof.

[N.J.S.A. 56:8-144(a).]

155. The Contractors' Registration Act further provides that "[t]he Director shall provide a toll-free telephone number for consumers making inquiries regarding contractors."
N.J.S.A. 56:8-149(b).

156. Additionally, the Contractors' Registration Act requires that "[a]ny invoice, contract or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided pursuant to [N.J.S.A. 56:8-149]." N.J.S.A. 56:8-144(b).

157. Moreover, the Contractors' Registration Act includes a writing requirement for contracts priced in excess of \$500.00 and provides, in pertinent part:

a. On or after December 31, 2005, every home improvement contract for a purchase price in excess of \$ 500, and all changes in the terms and conditions of the contract, shall be in writing. The contract shall be signed by all parties thereto, and shall clearly and accurately set forth in legible form and in understandable language all terms and conditions of the contract, including but not limited to:

(1) The legal name, business address, and registration number of the contractor;

(2) A copy of the certificate of commercial general liability insurance required of a contractor pursuant to section 7 [C. 56:8-142] of this act and the telephone number of the insurance company issuing the certificate; . . .

[N.J.S.A. 56:8-151(a).]

158. In addition, the Contractors' Registration Act requires that home improvement contractors include cancellation language as follows:

b. . . . The contract shall contain a conspicuous notice printed in at least 10-point bold-faced type as follows:

"NOTICE TO CONSUMER

YOU MAY CANCEL THIS CONTRACT AT ANY TIME BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO CANCEL THIS CONTRACT, YOU MUST EITHER:

1. SEND A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OR

2. PERSONALLY DELIVER A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION TO:

(Name of Contractor)

(Address of Contractor)

(Phone Number of Contractor)

If you cancel this contract within the three-day period, you are entitled to a full refund of your money. Refunds must be made within 30 days of the contractor's receipt of the cancellation notice."

[N.J.S.A. 56:8-151(b).]

159. Defendants have engaged in conduct in violation of the Contractors' Registration

Act including, but not limited to, the following:

- a. Advertising, selling and/or offering to perform home improvement work without being registered by the Division as a home improvement contractor;
- b. Performing home improvement work without being registered by the Division as a home improvement contractor;
- c. Failing to set forth the signatures of both parties to the home improvement contract;
- d. Failing to include a registration number on advertisements, vehicles, business documents, contracts and/or correspondence with consumers of home improvements in the State;
- e. Using another entity's registration number in Defendants' business documents, contracts and/or correspondence with consumers of home improvements in the State (e.g., home improvement contracts bearing the name Brick City included the home improvement contractor registration number for A-1 American Construction [trade name], home improvement

contracts bearing the name Roofing Police included the home improvement contractor registration number for A-1 American Construction [trade name]);

- f. Using invoices, contracts and/or correspondence which are given to consumers that fail to include the toll-free telephone number provided by the Director for consumers making inquiries regarding contractors;
- g. Failing to set forth the legal name on home improvement contracts;
- h. Failing to set forth the business address on home improvement contracts;
- i. Failing to provide consumers with a copy of the certificate of commercial general liability insurance; and
- j. Failing to use or using incomplete cancellation language in home improvement contracts.

160. Defendants' conduct constitutes multiple violations of the Contractors'

Registration Act, N.J.S.A. 56:8-136 et seq.

COUNT VII

VIOLATION OF THE CONTRACTOR REGISTRATION REGULATIONS BY DEFENDANTS

161. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 160 above as if more fully set forth herein.

162. The Contractor Registration Regulations, among other things, provide for procedures for the registration of home improvement contractors with the Division.

163. At all relevant times, Defendants have been "Home Improvement Contractor[s]" and/or "Contractor[s]" within the definition of the Contractor Registration Regulations, N.J.A.C. 13:45A-17.2.

164. At all relevant times, Defendants have performed "Home Improvement[s]" within the definition of the Contractor Registration Regulations, N.J.A.C. 13:45A-17.2.

165. At all relevant times, Defendants have "advertise[d]" home improvements within the meaning of the Contractor Registration Regulations, N.J.A.C. 13:45A-17.2.

166. At all relevant times, Defendants have entered into "Home improvement contract[s]" within the definition of the Contractor Registration Regulations, N.J.A.C. 13:45A-17.2.

167. The Contractor Registration Regulations provide, in pertinent part:

(a) On or after December 31, 2005, unless exempt under N.J.A.C. 13:45A-17.4:

1. No person shall engage in the business of making or selling home improvements in this State unless registered with the Division in accordance with this subchapter; and
2. No person shall advertise indicating that the person is a contractor in this State unless the person is registered with the Division in accordance with this subchapter.

[N.J.A.C. 13:45A-17.3(a).]

168. At all relevant times, Defendants were not exempt from the Division's contractor registration requirements.

169. The Contractor Registration Regulations further require that an applicant for registration as home improvement contractor provide information to the Division on the HIC Registration Application and Disclosure Statement, including, among other things: (a) the name and street address of each place of business of the home improvement contractor; (b) any fictitious or trade name to be used by the home improvement contractor; and (c) whether the

applicant or any of its officers, directors, principals or persons with an ownership of 10 percent or more in the applicant had been convicted of certain crimes (i.e., crimes of moral turpitude and/or enumerated crimes). N.J.A.C. 13:45A-17.5(a)(1) and (a)(6); N.J.A.C. 13:45A-17.6.

170. The Contractor Registration Regulations require that home improvement contractors prominently display certain information and provide, in pertinent part:

(d) A registered home improvement contractor shall prominently display:

....

2. The contractor's registration number on all advertisements distributed within this State, on business documents, contracts and correspondence with consumers of home improvement services in this State, and on all commercial vehicles registered in this State and leased or owned by a registrant and used by the registrant for the purpose of providing home improvements, except for vehicles leased or rented by a registrant to a customer of that registrant.

....

(f) As of November 4, 2008, any invoice, contract or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided by the Division pursuant to (b) of N.J.S.A. 56:8-149 and shall be displayed in all caps in at least 10-point bold-face type as follows:
FOR INFORMATION ABOUT CONTRACTORS AND THE
CONTRACTORS' REGISTRATION ACT, CONTACT THE NEW
JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION
OF CONSUMER AFFAIRS AT 1-888-656-6225.

[N.J.A.C. 13:45A-17.11(d)2, (f).]

171. Additionally, the Contractor Registration Regulations provide that:

In addition to the requirements of a home improvement contract pursuant to N.J.A.C. 13:45A-16.2, every home improvement contract in which a person required to be registered as a home improvement contractor is a party shall comply with the provisions of N.J.S.A. 56:8-151.

[N.J.A.C. 13:45A-17.13.]

172. Defendants have engaged in conduct in violation of the Contractor Registration

Regulations including, but not limited to, the following:

- a. Performing home improvement work without being registered by the Division as a home improvement contractor;
- b. Advertising as a home improvement contractor in the State without being registered by the Division as a home improvement contractor;
- c. Entering into home improvement contracts that did not comply with the requirements of N.J.S.A. 56:8-151 (e.g. failing to set forth the signatures of both parties);
- d. Providing incomplete, incorrect and/or misleading information to the Division on an HIC Registration Application and/or Disclosure Statement (e.g., failing to disclose all addresses used, failing to disclose other business names used; failing to disclose criminal convictions, providing a falsified Trade Name Certificate);
- e. Failing to provide the contractor's registration number on all advertisements, vehicles, business documents, contracts and/or correspondence with consumers of home improvement services in the State; and
- f. Using invoices, contracts and/or correspondence which are given to consumers that fail to include the informational statement and toll-free telephone number provided by the Director for consumers making inquiries regarding contractors.

173. Defendants' conduct constitutes multiple violations of the Contractor Registration

Regulations, N.J.A.C. 13:45A-17.1 et seq., each of which constitutes a per se violation of the CFA, N.J.S.A. 56:8-1 et seq.

COUNT VIII

VIOLATION OF THE HOME IMPROVEMENT PRACTICES REGULATIONS BY DEFENDANTS

174. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 173 above as if more fully set forth herein.

175. The Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq., among other things, prohibit certain acts and practices of a seller connected with a sale, advertisement or performance of home improvement contracts.

176. Defendants are "Seller[s]" within the definition of N.J.A.C. 13:45A-16.1.

177. At all relevant times, Defendants entered into "Home Improvement Contract[s]" within the definition of N.J.A.C. 13:45A-16.1.

178. The Home Improvement Regulations prohibit certain practices with regard to the performance of home improvement contracts, as follows:

- a. Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., utilization by a seller of the following acts and practices involving the sale, attempted sale, advertisement or performance of home improvements shall be unlawful hereunder.

....

2. Product and material representations: Misrepresent directly or by implication that products or materials to be used in home improvement:

....

- iv. Are approved or recommended by any governmental agency, person, firm or organization, or that they are the users of such products or materials;

....

4. Identity of seller:

-
- iii. Misrepresent the status, authority or position of the sales representative in the organization he represents;
-

- iv. Misrepresent that the seller is part of any governmental or public agency in any printed or oral communication including but not limited to leaflets, tracts or other printed material, or that any licensing denotes approval by the governmental agency.
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10. Building permits:

- i. No seller contracting for the making of home improvements shall commence work until he is sure that all applicable state or local building and construction permits have been issued as required under state laws or local ordinances;
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11. Guarantees or Warranties:

- i. The seller shall furnish the buyer a written copy of all guarantees or warranties made with respect to labor services, products or materials furnished in connection with home improvements. Such guarantees or warranties shall be specific, clear and definite and shall include any exclusions or limitations as to their scope or duration. Copies of all guarantees or warranties shall be furnished to the buyer at the time the seller presents his bid as well as at the time of execution of the contract, except that separate guarantees or warranties of the manufacturer of products or materials may be furnished at the time such products or materials are installed.
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12. Home improvement contract requirements-writing requirement: All home improvement contracts for a purchase price in excess of \$500.00, and all changes in the terms and conditions thereof shall be in writing. Home improvement contracts which are required by this subsection to be in writing, and all changes in the terms and conditions thereof, shall be signed by all parties thereto, and shall

clearly and accurately set forth in legible form and in understandable language all terms and conditions of the contract, including, but not limited to, the following:

- i. The legal name and business address of the seller, including the legal name and business address of the sales representative or agent who solicited or negotiated the contract for the seller;
- ii. A description of the work to be done and the principal products and materials to be used or installed in performance of the contract. The description shall include, where applicable, the name, make, size, capacity, model, and model year of principal products or fixtures to be installed, and the type, grade, quality, size or quantity of principal building or construction materials to be used. Where specific representations are made that certain types of products or materials will be used, or the buyer has specified that certain types of products are to be used, a description of such products or materials shall be clearly set forth in the contract;
- iii. The total price or other consideration to be paid by the buyer, including all finance charges. If the contract is one for time and materials, the hourly rate for labor and all other terms and conditions of the contract affecting price shall be clearly stated;
- iv. The dates or time period on or within which the work is to begin and be completed by the seller;

[N.J.A.C. 13:45A-16.2(a)(2)(iv),(4)(iii)(iv),(10)(i),(11)(i),(12)(i)-(iv).]

179. Defendants violated the Home Improvement Regulations by engaging in certain conduct including, but not limited to the following:

- a. Failing to provide consumers with copies of all guarantees or warranties;
- b. Failing to include in home improvement contracts the signatures of all parties thereto;

- c. Failing to include in home improvement contracts a legal name (i.e., use of unregistered assumed business names);
- d. Failing to include in home improvement contracts a business address;
- e. Failing to include in home improvement contracts the legal name and/or address of the sales representative or agent who solicited or negotiated the contract for Defendants;
- f. Failing to include in home improvement contracts a description of the work to be done and the principal products and materials to be used or installed in performance of the contract;
- g. Failing to include in home improvement contracts the total price or other consideration to be paid by the buyer, including the hourly rate for labor and all other terms and conditions of the contract affecting price;
- h. Failing to include in home improvement contracts the dates or time periods on or within which work is to commence;
- i. Failing to include in home improvement contracts the dates or time periods on or within which work is to be completed;
- j. Commencing work without the necessary State and/or local permits to perform the contracted for home improvement;
- k. Misrepresenting, directly or by implication, that products or materials to be used by Roofing Police, Roofing Squad, Chimney Squad and/or Diamond Roofing in home improvement are approved or recommended by any government agency, person, firm or organization; and
- l. Misrepresenting that Roofing Police, Roofing Squad, Chimney Squad and/or Diamond Roofing are part of a governmental or public agency in any printed or oral communication.

180. Defendants' conduct constitutes multiple violations of the Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq., each of which constitutes a per se violation of the CFA, N.J.S.A. 56:8-1 et seq.

COUNT IX

VIOLATION OF THE ADVERTISING REGULATIONS BY DEFENDANTS

181. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 180 above as if more fully set forth herein.

182. The Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq., address, among other issues, general advertising practices and price reduction advertisements.

183. Specifically, the Advertising Regulations governing general advertising practices provide, in relevant part:

- (a) Without limiting the application of N.J.S.A. 56:8-1 et seq., the following practices shall be unlawful with respect to all advertisements:

...

9. The making of false or misleading representations of facts concerning the reasons for, existence or amounts of price reductions, the nature of an offering or the quantity of advertised merchandise available for sale.

[N.J.A.C. 13:45A-9.2(a)9.]

184. Upon information and belief, at varying times, Defendants have made false or misleading representations of facts through, at least, the following advertisements: in Hometown Quarterly Magazine; the A-1 American Chimney Website; Roofing Squad Website #1; Roofing Squad Website #2; the Roofing Police Website; and Diamond Roofing Website #1.

185. Defendants violated the Advertising Regulations by engaging in certain conduct including, but not limited to:

- a. Representing that Roofing Police, Roofing Squad, Chimney Squad and/or Diamond Roofing are government agencies, quasi-police agencies and/or police-affiliated businesses, when such is not the case;

- b. Misrepresenting that Roofing Police, Roofing Squad and/or Diamond Roofing are owned by an active law enforcement officer or a member of law enforcement; and
- c. Misrepresenting in the A-1 American Chimney Website that A-1 American Construction is a limited liability company.

186. Defendants' conduct constitutes multiple violations of N.J.A.C. 13:45A-9.2(a)9, each of which constitutes a per se violation of the CFA.

COUNT X

VIOLATIONS OF THE CFA, THE CONTRACTORS' REGISTRATION ACT, THE CONTRACTOR REGISTRATION REGULATIONS, THE HOME IMPROVEMENT REGULATIONS AND THE ADVERTISING REGULATIONS BY KOT

187. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 186 above as if more fully set forth herein.

188. At all relevant times, Kot was identified and/or acted as owner, officer, member and/or manager of A-1 American Construction, A 1 American Chimney, Brick City Chimney Service, Brick City Chimney Service and Cleaning and/or Roofing Police and has controlled, directed and/or participated in the activities of those entities.

189. Kot's conduct makes him personally liable for the violations of the CFA, the Contractors' Registration Act, the Contractor Registration Regulations, the Home Improvement Regulations and/or the Advertising Regulations committed by A-1 American Construction, A 1 American Chimney, Brick City Chimney Service, Brick City Chimney Service and Cleaning and/or Roofing Police.

COUNT XI

VIOLATIONS OF THE CFA, THE CONTRACTORS' REGISTRATION ACT, THE CONTRACTOR REGISTRATION REGULATIONS, THE HOME IMPROVEMENT REGULATIONS AND THE ADVERTISING REGULATIONS BY DASILVA

190. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 189 above as if more fully set forth herein.

191. At all relevant times, DaSilva was identified and/or acted as owner, officer, member and/or manager of A-1 American Construction, A 1 American Chimney and/or Roofing Police and has controlled, directed and/or participated in the activities of those entities.

192. DaSilva's conduct makes him personally liable for the violations of the CFA, the Contractors' Registration Act, the Contractor Registration Regulations, the Home Improvement Regulations and/or the Advertising Regulations committed by A-1 American Construction, A 1 American Chimney and/or Roofing Police.

PRAYER FOR RELIEF

WHEREFORE, based upon the foregoing allegations, Plaintiffs respectfully request that the Court enter judgment against Defendants:

- (a) Finding that the acts and omissions of Defendants constitute multiple instances of unlawful 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.;
- (b) Permanently enjoining Defendants and their owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, independent contractors and all other persons or entities directly under their control, 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., including, but not limited to, the acts and practices alleged in this Complaint, as authorized by the CFA, N.J.S.A. 56:8-8;

- (c) Permanently enjoining Defendants from performing home improvements in the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-8;
- (d) Permanently enjoining Kot and DaSilva 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;
- (e) Permanently enjoining Kot from managing or owning any business organization within this State and from serving as an officer, director, trustee, member of an executive board or similar governing body, principal, manager, stockholder owning 10% or more of the aggregate outstanding capital stock of all classes of any corporation doing business in this State, as authorized by the CFA, N.J.S.A. 56:8-8;
- (f) Permanently vacating and/or annulling the corporate charters in the State of A-1 American Construction, A 1 American Chimney, Brick City Chimney Service, Brick City Chimney Service and Cleaning, and Roofing Police, as authorized by the CFA, N.J.S.A. 56:8-8;
- (g) Directing the assessment of restitution amounts against Defendants, jointly and severally, to restore to any affected person, whether or not named in this Complaint, any money or real or personal property acquired by means of any alleged practice herein to be unlawful and found to be unlawful, as authorized by the CFA, N.J.S.A. 56:8-8;
- (h) Assessing the maximum statutory civil penalties against Defendants, jointly and severally, for each and every violation of the CFA, in accordance with N.J.S.A. 56:8-13;
- (i) Directing the assessment of costs and fees, including attorneys' fees, against Defendants, jointly and severally, for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19; and

- (j) Granting such other relief as the interests of justice may require.

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By:  
Nicholas Kant
Deputy Attorney General

Dated: April 16, 2012
Newark, New Jersey

RULE 4:5-1 CERTIFICATION

I certify, to the best of my information and belief, that the matter in this action involving the aforementioned violations 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., is not the subject of any other action pending in any other court of this State. I further certify, to the best of my information and belief, that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated. I am aware that consumers have brought their own civil actions against Defendants, including Craig Urciouli and Elizabeth Urciouli v. The Roofing Police and John Kot, filed in the Superior Court of New Jersey, Bergen County, Law Division, Special Civil Part, which alleges violations of the CFA. Further, I am aware that some consumers who filed consumer complaints with the New Jersey Division of Consumer Affairs previously filed civil actions against Defendants, primarily in the Special Civil Part, which have resulted in judgments for only compensatory damages against Defendants and not injunctive relief and civil penalties as sought by Plaintiffs in this action. I certify that there is no other party who should be joined in this action at this time.

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By:  
Nicholas Kant
Deputy Attorney General

Dated: April 16, 2012
Newark, New Jersey

RULE 1:38-7(c) CERTIFICATION OF COMPLIANCE

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By:



Nicholas Kant
Deputy Attorney General

Dated: April 16, 2012
Newark, New Jersey

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Deputy Attorney General Nicholas Kant is hereby designated as trial counsel for the Plaintiffs in this action.

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By:



Nicholas Kant
Deputy Attorney General

Dated: April 16, 2012
Newark, New Jersey