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SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION, OCEAN COUNTY  
DOCKET NO. OCN-C-139-16

CHRISTOPHER S. PORRINO, Acting Attorney  
General of the State of New Jersey, and STEVE C.  
LEE, Director of the New Jersey Division of  
Consumer Affairs,

Civil Action

Plaintiffs,

v.

THE PRICE HOME GROUP LIMITED LIABILITY  
COMPANY; JONATHAN PRICE, individually and  
as owner, officer, director, member, manager,  
employee, representative and/or agent of THE PRICE  
HOME GROUP LIMITED LIABILITY COMPANY;  
SCOTT COWAN, individually and as owner, officer,  
director, member, manager, employee, representative  
and/or agent of THE PRICE HOME GROUP  
LIMITED LIABILITY COMPANY; JANE AND  
JOHN DOES 1-20, individually and as owners,  
officers, directors, shareholders, founders, members,  
managers, employees, servants, agents, representatives  
and/or independent contractors of THE PRICE HOME  
GROUP LIMITED LIABILITY COMPANY; and  
XYZ CORPORATIONS 1-20,

**FIRST AMENDED COMPLAINT**

Defendants.

Plaintiffs Christopher S. Porrino, Acting Attorney General of the State of New Jersey ("Attorney General"), with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey, and Steve C. Lee, Director of the New Jersey Division of Consumer Affairs ("Director"),<sup>1</sup> with offices located at 124 Halsey Street, Seventh Floor, Newark, New Jersey, by way of First Amended Complaint state:

### PRELIMINARY STATEMENT

1. In the wake of the devastation caused by Superstorm Sandy, it became necessary for homeowners across the State of New Jersey ("New Jersey" or "State") to elevate their existing homes or to replace their homes with elevated modular homes to keep them safe from future storms. The Reconstruction, Rehabilitation, Elevation and Mitigation ("RREM") Program was established by the New Jersey Department of Community Affairs ("DCA") to provide grants to homeowners, among other things, for home elevation and new home construction. At all relevant times, The Price Home Group Limited Liability Company ("Price Home Group"), owned and operated by Jonathan Price and Scott Cowan, was among the contractors approved by the RREM Program for use by grant recipients.

2. To date, the New Jersey Division of Consumer Affairs ("Division") has received seventeen (17) consumer complaints regarding the home elevation work and/or installation of modular homes to be performed by Price Home Group, Jonathan Price and Scott Cowan (collectively, "Defendants"). The complaints have revealed multiple violations 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., and the regulations promulgated thereunder, specifically the Regulations Governing

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<sup>1</sup> This action was commenced on behalf of Robert Lougy, former Acting Attorney General, and Steve C. Lee, Acting Director. In accordance with R. 4:34-4, the caption has been revised to reflect the current Acting Attorney General and the current Director.

Home Elevation Contractors, N.J.A.C. 13:45A-17A.1 et seq. (“Home Elevation 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”). Among other things, these alleged violations arise from Defendants’ failure to: (a) include required information in home elevation contracts (e.g., the dates or time period on or within which the work is to begin and be completed by the seller, a description of the principal products and materials to be used or installed and the terms and conditions affecting price, including the hourly rate for labor); (b) perform the contracted for home elevation work after receipt of RREM funds and/or consumer payments; and (c) install the contracted for modular homes after receipt of RREM funds and/or consumer payments. The Attorney General and Director commence this action to halt Defendants’ deceptive business practices, and to obtain consumer restitution and other monetary relief.

### **PARTIES AND JURISDICTION**

3. The Attorney General is charged with the responsibility of enforcing the CFA, the Contractors’ Registration Act, and the regulations promulgated thereunder, specifically the Home Elevation 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 Home Elevation Regulations, the Home Improvement Regulations, and the Advertising Regulations on behalf of the Attorney General.

4. By this action, the Attorney General and Director (collectively, “Plaintiffs”) seek injunctive and other relief for violations of the CFA, the Contractors’ Registration Act, the Home Elevation 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.

5. Venue is proper in Ocean 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 February 6, 2013, Price Home Group was established as a Limited Liability Company in the State. At all relevant times, Price Home Group has maintained a principal business and mailing address of 641 Mill Creek Road, Suite 7, Manahawkin, New Jersey.

7. Price Home Group's registered agent in the State is Jeremy S. Price, Esq., with a mailing address of 147 E. Main Street, Tuckerton, New Jersey 08087.

8. At all relevant times, Jonathan Price ("Price") has been an owner, officer, director, member, manager, employee, representative and/or agent of Price Home Group and has controlled, directed and/or participated in the management and operation of Price Home Group. Price's current address is 102 Parker Street, Manahawkin, New Jersey 08050.

9. On April 6, 2016, a Voluntary Petition for Reorganization under Chapter 7 of the Bankruptcy Code was filed on behalf of Price in the United States Bankruptcy Court, District of New Jersey (Trenton), Case No. 16-16639 (MBK). At that time, Price listed assets of \$9,658 and liabilities of \$1,607,924.

10. At all relevant times, Scott Cowan ("Cowan") has been an owner, officer, director, member, manager, employee, representative and/or agent of Price Home Group and has controlled, directed and/or participated in the management and operation of Price Home Group. Cowan's current address is 35 Prescott Street, Demarest, New Jersey 07627.

11. On March 15, 2016, a Voluntary Petition for Reorganization under Chapter 11 of the Bankruptcy Code was filed on behalf of Cowan in the United States Bankruptcy Court, District of

New Jersey (Newark), Case No. 16-14758 (SLM). At that time, Cowan listed assets of \$1,157,273.84 and liabilities of \$1,824,552.74.

12. Plaintiffs' claims against Price and/or Cowan are not stayed by virtue of their bankruptcy filings, pursuant to 11 U.S.C. §362(b)(4), which provides an exception from the automatic stay for an action or proceeding by a governmental unit to enforce its police or regulatory power.

13. John and Jane Does 1 through 20 are fictitious individuals meant to represent the owners, officers, directors, shareholders, founders, members, managers, agents, servants, employees and/or representatives of Price Home Group who have been involved in the conduct that gives rise to this First Amended Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the First Amended Complaint to include them.

14. XYZ Corporations 1 through 20 are fictitious corporations meant to represent any additional business entities who have been involved in the conduct that gives rise to the First Amended Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the First Amended Complaint to include them.

#### **GENERAL ALLEGATIONS COMMON TO ALL COUNTS**

15. At all relevant times, Price Home Group was designated as an approved contractor for home elevation and new home construction with the RREM Program.

16. Since at least February 2013, Defendants have been engaged in the advertisement, offer for sale, sale and performance of home elevations and installation of modular homes for consumers in New Jersey and elsewhere.

A. RREM Program:

17. The RREM Program, administered by DCA, consists of \$1.1 billion in federal funding provided through Community Disaster Block Grant Disaster Recovery funds allocated to New Jersey by the U.S. Department of Housing and Urban Development, to help eligible New Jersey homeowners repair or rebuild their Superstorm Sandy-damaged homes.

18. The RREM Program provides grants to homeowners with an income of \$250,000.00 or less, for activities necessary to restore their storm-damaged primary residences, including reconstruction, rehabilitation, elevation and/or other mitigation activities.

19. The RREM Program is open to homeowners whose primary residence is located in one of nine (9) New Jersey counties (Atlantic, Bergen, Cape May, Essex, Hudson, Middlesex, Monmouth, Ocean or Union) and whose homes suffered a loss of at least \$8,000.00 or one foot of water on the first floor, as verified by the Federal Emergency Management Agency ("FEMA") or its affiliates.

20. The RREM Program is intended to function as a bridge between the total cost of repairs and other funding the homeowner has received to repair or rebuild his/her home. The calculation of the RREM grant takes into consideration the cost of the repair or rebuilding and funds the homeowner has received from other sources, such as insurance, FEMA, and non-profit organizations. The RREM grant may not exceed \$150,000.00.

21. The RREM Program Pathway B ("Pathway B") is a program that allows eligible homeowners to select their own general contractor to repair or rebuild their home. The general contractor must be licensed and/or registered with the State, and compliant with all State and Federal regulations applicable to the RREM Program.



22. To date, the Division has identified nine (9) consumers who contracted with Price Home Group as Pathway B Homeowners. These consumers paid Price Home Group the aggregate amount of \$1,118,814.39 for home elevations or installation of modular homes, which were not performed in whole or in part. Out of that amount, \$898,331.11 represented RREM funds. The identified RREM consumers as well as the funds each paid to Price Home Group is as follows:

Last Name	RREM Funds paid to PHG	Consumer Monies Paid to PHG	Total Amount Paid	Restitution	Contracted For Work
Berthelson	\$111,950.00	\$21,427.00	\$133,377.00	\$133,377.00	Modular
Gallelli	\$116,511.73	\$44,280.00	\$160,791.73	\$24,986.15	Elevation
Hou	\$81,600.00		\$81,600.00	\$81,600.00	Elevation
Hough	\$103,000.00	\$1,450.00	\$104,450.00	\$104,450.00	Modular
Leo	\$104,206.72	\$4,093.28	\$108,300.00	\$100,800.00	Modular
Lopez	\$70,099.01		\$70,099.01	\$70,099.01	Elevation
McHenry	\$68,991.00		\$68,991.00	\$68,991.00	Modular
Ruane	\$150,000.00	\$149,233.00	\$299,233.00	\$163,700.00	Modular
Seckler	\$91,972.65	0.00	\$91,972.65	\$91,972.65	Elevation
TOTAL	\$898,331.11	\$220,483.28	\$1,118,814.39	\$839,975.81	

**B. Defendants' Website:**

23. At all relevant times, Defendants advertised their home elevation and installation of modular homes through an internet website, namely [www.pricehomegroup.com](http://www.pricehomegroup.com) ("Price Home Group Website").

24. The Price Home Group Website advertised that "We offer a one-stop solution for elevation [*sic*] your current home or building a new, modular home."

25. The Price Home Group Website's homepage appeared as follows:

## **PHG Among 47 Builders Chosen by State for Hurricane Sandy Rebuilding**

### **Your Exclusive Distributor of PHG Custom Modular Homes!**

#### **Your Solution for Modular Homes & Home Elevation**

PHG is proud to be from the beautiful Garden State. We understand the devastation that Hurricane Sandy caused in areas such as Beach Haven West, Ortley Beach, Mantoloking, Seaside Heights and other barrier islands. As a New Jersey registered General Home Contractor and New Home Builder, we offer a one-stop solution for elevating your current home or building a new, modular home.

The PHG team is comprised of area experts who can answer all of your questions and provide information on remediation, home elevation and new home construction. Flood Elevation is one way to prevent further loss and to keep the cost of FEMA flood insurance as low as possible. We also stay up-to-date on all of the various government grant programs and can help you with the increased Cost of Compliance (ICC) process.

As an exclusive distributor of PHG Homes for this region, our team of experts has access to the resources necessary to quickly and efficiently rebuild your coastal home. By utilizing modular construction, we can ensure that you are back in your home in a quicker and more affordable fashion. By choosing to build with PHG, you can rest assured that we will always work our hardest to save you money, limit your tax liability and maximize your financing options and flood insurance benefits.

When you want the right home, built for the right Price at the New Jersey Shore...choose PHG.



© PHG | Price Home Group, 2015 | 641 Mill Creek Rd. | Mumfordsville, NJ 08050  
Local: (609) 488-2111 | Toll Free: (855) 937-7742 | Email: info@phgshomesgroup.com  
NJ General Contractor Registration # 1311034540

26. The Price Home Group Website advertised: “PHG Among 47 Builders Chosen by State for Hurricane Sandy Rebuilding.”

27. The Price Home Group Website featured an “About Us” section, including short biographies of Cowan and Price.

28. Cowan’s biography is as follows:

Scott, a New Jersey native, currently resides in Beach Haven West and has called Long Beach Island his home since he was a child. Scott has 30 years of experience in Project Management, with insight and knowledge regarding Government and Insurance regulations and compliance. Scott understands that all home construction and improvement projects are taken very personally by the homeowner and insures that any project that PHG accepts, needs to be 100% completed by the promised date:



'A job that is 95% finished by the promised date, is a project that we failed and would be totally unacceptable.'

29. Price's biography is as follows:

Jonathan is a lifelong resident of Ocean County and resides in Stafford Township. He has over 18 years of experience building custom homes on the New Jersey coast. In order to build homes that can withstand all New Jersey weather can offer, Jonathan has become an expert in every area of custom home construction.

'As a builder, attention to detail is extremely important to me and establishes a foundation of excellence for every home,' says Jon. "I strive to provide highly skilled, professional and cost efficient skills to every project. This produces a smooth construction project where our clients' expectations of a beautiful home, within the promised timeline and budget are met. That is my goal.'

30. The Price Home Group Website included a "Customer's Bill of Rights" which provided, in pertinent part:

- You have the right to have all work completed according to agreed upon specifications and schedules.

**C. Home Improvement Contractor Registration:**

31. On February 19, 2013, Price Home Group submitted to the Division a Home Improvement Contractor Application for Initial Registration ("HIC Registration Application") for registration as a home improvement contractor ("HIC") in the State.

32. In the HIC Registration Application, Price and Cowan, along with Jeremy Price, were each identified as 33.33% owner of Price Home Group.

33. On or about March 20, 2013, the Division registered Price Home Group as an HIC and issued it registration number 13VH07322500.

34. Price Home Group renewed its home improvement contractor registration on February 25, 2015 and April 6, 2016.

35. Price Home Group is currently registered with the Division as a HIC, which registration will expire on March 31, 2017.

36. At no time was Price Home Group registered with the Division as a Home Elevation Contractor.

**D. Defendants' Business Practices Generally:**

37. At all relevant times, Defendants utilized a contract for home elevations ("PHG HE Contract") that did not include: (a) the dates or time period on or within which the work is to begin and be completed; (b) a description of the principal products and materials to be used or installed; and (c) the terms and conditions affecting price, including the hourly rate for labor. Upon information and belief, Defendants did not otherwise provide this information to consumers who entered into PHG HE Contracts.

38. At all relevant times, Defendants utilized a contract for the installation of modular homes ("PHG MH Contract") that did not include: (a) the dates or time period on or within which the work is to begin and be completed; (b) a description of the principal products and materials to be used or installed; and (c) the terms and conditions affecting price, including the hourly rate for labor. Upon information and belief, Defendants did not otherwise provide this information to consumers who entered into PHG MH Contracts.

39. At varying times, Price executed both the PHG HE Contracts and the PHG MH Contracts on behalf of Price Home Group. In at least one (1) PHG HE Contract, Price is identified as "contractor's representative."

40. Price is identified as "salesperson" in at least one (1) PHG HE Contract.

41. Price communicated with consumers via email, among other things, as to revisions to engineering plans.

42. At varying times, Cowan executed both the PHG HE Contracts and the PHG MH Contracts on behalf of Price Home Group.

43. In at least one (1) PHG HE Contract, Cowan is designated as "contractor's representative."

44. Upon information and belief, Cowan communicated with consumers via email, among other things, as to disputes regarding invoices.

45. At varying times, Defendants failed to begin and/or complete the home elevation work specified in the PHG HE Contract.

46. At varying times, Defendants failed to begin and/or complete the installation of the modular homes specified in the PHG MH Contract.

47. At varying times, Defendants accepted consumer payments, which included RREM funds, and commenced home elevation work and/or modular home installation, only to abandon the project and not return to the consumers' homes for weeks, months or at all.

48. At varying times, Defendants failed to give notice to consumers regarding delays in home elevation work or installation of modular homes.

49. At varying times, Defendants failed to respond to consumers' calls, e-mails and/or texts inquiring into when Defendants would continue home elevation work or modular home installation that had been commenced, but then had been abandoned.

50. On at least one (1) occasion, a consumer contracted with Defendants for the installation of a modular home, arranged for her existing home to be demolished by a demolition company in preparation for such installation, but then Defendants failed to install the modular home.

51. At varying times, Defendants rescheduled dates for the commencement of home elevation work and/or modular home installation, but then failed to commence the work or installation.

52. At varying times, Defendants required consumers to make significant initial payments, which included RREM funds, but then failed to perform the contracted-for home elevation work or modular home installation.

53. On one (1) occasion, Defendants abandoned a home elevation project while the home was raised on temporary supports.

54. At varying times, Defendants performed home elevation in a substandard manner and then failed to make the necessary corrective repairs including, but not limited to: (a) elevating a home to half a foot less than the required height; and (b) installing inferior footings for the home elevation.

55. On at least one (1) occasion, Defendants misrepresented to a consumer that a building permit application had been filed, when it had not been filed.

### **COUNT I**

#### **VIOLATION OF THE CFA BY DEFENDANTS (UNCONSCIONABLE COMMERCIAL PRACTICES)**

56. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 55 above as if more fully set forth herein.

57. 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...

58. 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).

59. 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), including, but not limited to, home elevations and modular homes.

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

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

- a. Advertising, offering for sale, selling and/or performing home elevations without being registered as a Home Elevation Contractor with the Division;
- b. Entering into PHG HE Contracts, accepting consumer payments and/or RREM funds and then failing to begin or complete home elevations;
- c. Entering into PHG MH Contracts, accepting consumer payments and/or RREM funds and then failing to begin or complete the installation of modular homes;
- d. Failing to provide timely written notice for any delay in the performance of the home elevation work and/or modular home installation;
- e. Accepting consumer payments and/or RREM funds and then commencing home elevation work and/or modular home installation, only to abandon the project and fail to return to the consumer's home for weeks, months or at all;
- f. Failing to respond to consumers' calls, e-mails and/or texts inquiring when Defendants would commence, continue and/or complete the home elevation work and/or modular home installation;
- g. Repeatedly rescheduling dates for commencement of home elevation work and/or modular home installation, and then failing to commence the work;



- h. Requiring consumers to make significant initial payments, which included RREM funds, and then failing to perform the contracted-for home elevation or modular home installation;
- i. Failing to apply for the necessary building permit, despite indicating to the consumer that such had been applied for;
- j. Failing to advise consumers, whether through the PHG MH Contract or otherwise, of the dates or time period on or within which the installation of a modular home is to begin and be completed;
- k. Failing to advise consumers, whether through the PHG MH Contract or otherwise, of the terms and conditions affecting price, including the hourly rate for labor;
- l. Abandoning a home elevation project while the home was raised on temporary supports; and
- m. Performing home improvements in a substandard manner (e.g. elevating a home to half a foot less than the required height, installing inferior footings for the home elevation) and then failing to make the necessary corrective repairs.

62. 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 (FALSE PROMISES, MISREPRESENTATIONS)**

63. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 62 above as if more fully set forth herein.

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

- a. Representing on the Price Home Group Website that Defendants were committed to finishing work on time, when such was not the case;

- b. Representing on the Price Home Group Website that Defendants will complete all work according to agreed-upon specifications and schedules, when such was not the case; and
  - c. Representing that a building permit application had been filed, when such was not the case.
65. Each 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 CONTRACTORS' REGISTRATION ACT BY DEFENDANTS

66. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 65 above as if set forth more fully herein.

67. The Contractors' Registration Act is applicable to Home Elevation Contractors, pursuant to N.J.S.A. 56:8-138.2.

68. The Contractors' Registration Act, specifically N.J.S.A. 56:8-138.2(a), provides as follows:

In addition to complying with the other requirements of the ['Contractors' Registration Act,'] no person shall offer to perform, or engage, or attempt to engage in the business of home elevation unless registered with the division as a home elevation contractor.

69. The Contractors' Registration Act, which applies to Defendants' sale of home elevations, 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[...]

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

70. Defendants have engaged in conduct in violation of the Contractors' Registration Act including, but not limited to, the following:

- a. Advertising, offering for sale, selling and /or performing home elevations without being registered with the Division as a Home Elevation Contractor (N.J.S.A. 56:8-132.2(a)); and
- b. Failing to include in the PHG HE Contract all of the terms and conditions affecting price (e.g., hourly rate for labor) (N.J.S.A. 56:8-151(a)) .

71. Defendants' conduct constitutes a violation of the Contractors' Registration Act, N.J.S.A. 56:8-136 et seq.

#### COUNT IV

#### **VIOLATION OF THE HOME ELEVATION REGULATIONS BY DEFENDANTS**

72. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 71 above as if more fully set forth herein.

73. The Home Elevation Contractor Regulations, specifically N.J.A.C. 13:45A-17A.3(a) provides that:

On or after October 1, 2014, no person shall engage in the business of making or selling home elevations in this State unless registered with the Division in accordance with this subchapter, except as provided in (a)1 below:

74. The exceptions provided in N.J.A.C. 13:45A-17A.3(a)1 do not apply to Defendants.

75. The Home Elevation Contractor Regulations, specifically N.J.A.C. 13:45A-17A.12, provides that:

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

76. Defendants have engaged in conduct in violation of the Home Elevation Regulations including, but not limited to:

- a. Advertising, offering for sale, selling and/or performing home elevations without being registered as a Home Elevation Contractor with the Division (N.J.S.A. 13:45A-17A.3(a)); and
- b. Failing to include in the PHG HE Contract all of the terms and conditions affecting price (e.g., hourly rate for labor) (N.J.S.A. 56:8-151(a)).

77. Defendants' conduct constitutes multiple violations of the Home Elevation Regulations, N.J.A.C. 13:45A-17A.1 et seq., each of which constitutes a per se violation of the CFA, N.J.S.A. 56:8-1 et seq.

#### COUNT V

#### VIOLATION OF THE HOME IMPROVEMENT REGULATIONS BY DEFENDANTS

78. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 77 above as if more fully set forth herein.

79. As set forth above, the Home Elevation Contractor Regulations, specifically N.J.A.C. 13:45A-17A.12, provide that the requirements of a home improvement contract pursuant to the Home Improvement Regulations, specifically, N.J.A.C. 13:45A-16.2, pertain to every home elevation contract.

80. 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.

....

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;

....

- 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.

....

- (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) (10)(i), (12)(ii-iv).]

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

- a. Failing to obtain the necessary building permit (N.J.A.C. 13:45A-16.2(10)(i));
- b. Failing to include in the PHG HE Contract the principal products and materials to be used or installed in performance of the contract (N.J.A.C. 13:45A-16.2(a)(12)(ii);



and/or participated in the management and operation of that entity, including the conduct alleged in this First Amended Complaint.

90. The conduct of Price makes him personally liable for the violations of the CFA, the Contractors' Registration Act, the Home Elevation Regulations, the Home Improvement Regulations and/or the Advertising Regulations committed by Price Home Group.

#### **COUNT VIII**

#### **VIOLATIONS OF THE CFA, THE CONTRACTORS' REGISTRATION ACT, THE HOME ELEVATION REGULATIONS, THE HOME IMPROVEMENT REGULATIONS AND/OR THE ADVERTISING REGULATIONS BY COWAN**

91. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 90 above as if more fully set forth herein.

92. At all relevant times, Cowan has been a partial owner, manager, director, representative and/or agent of Price Home Group, and has controlled, directed and/or participated in the management and operation of that entity, including the conduct alleged in this First Amended Complaint.

93. The conduct of Cowan makes him personally liable for the violations of the CFA, the Contractors' Registration Act, the Home Elevation Regulations, the Home Improvement Regulations and/or the Advertising Regulations committed by Price Home Group.

#### **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 Home Elevation Regulations, N.J.A.C. 13:45A-17A.1 et seq., the Home

Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq., and/or the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq.;

- (b) Permanently enjoining Defendants and their owners, officers, directors, shareholders, founders, members, 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 Home Elevation Regulations, N.J.A.C. 13:45A-17A.1 et seq., the Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq., and/or 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 First Amended Complaint, as authorized by the CFA, N.J.S.A. 56:8-8;
- (c) Permanently enjoining Defendants from owning, operating or otherwise managing any business or other entity in the State, whether registered with the Division or not, that advertises, offers for sale, sells and/or performs home elevations and/or the installation of modular homes within the State;
- (d) Permanently enjoining Defendants from the advertisement, offer for sale, sale and performance of home improvements, including home elevation, and/or the installation of modular homes within the State;
- (e) Permanently revoking the HIC registration of Price Home Group;
- (f) Directing the assessment of restitution amounts against Price Home Group, to restore to any affected person, whether or not named in this First Amended 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 N.J.S.A. 56:8-8;
- (g) Directing the disgorgement of RREM funds to the New Jersey Department of Community Affairs by Price Home Group, as authorized by N.J.S.A. 56:8-8;
- (h) Assessing the maximum statutory civil penalties against Price Home Group, 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 Price Home Group, 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.

CHRISTOPHER S. PORRINO  
ACTING ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: \_\_\_\_\_



Alina Wells  
Deputy Attorney General  
Consumer Fraud Prosecution Section

Dated: July 11, 2016  
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 Home Elevation Regulations, N.J.A.C. 13:45A-17A.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 other than In re Jonathan W. Price, United States Bankruptcy Court - District of New Jersey, Chapter 7 Case No. 16-16639 (MBK) and In re Scott P. Cowan, United States Bankruptcy Court - District of New Jersey, Chapter 11 Case No. 16-14758 (SLM). 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 certify that there is no other party who should be joined in this action at this time.

CHRISTOPHER S. PORRINO  
ACTING ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: Alina Wells  
Alina Wells  
Deputy Attorney General  
Consumer Fraud Prosecution Section

Dated: July 11, 2016  
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).

CHRISTOPHER S. PORRINO  
ACTING ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: Alina Wells  
Alina Wells  
Deputy Attorney General  
Consumer Fraud Prosecution Section

Dated: July 11, 2016  
Newark, New Jersey

**DESIGNATION OF TRIAL COUNSEL**

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

CHRISTOPHER S. PORRINO  
ACTING ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: Alina Wells  
Alina Wells  
Deputy Attorney General  
Consumer Fraud Prosecution Section

Dated: July 11, 2016  
Newark, New Jersey