

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

STATE OF RHODE ISLAND,
Plaintiff,

v.

BTTR, LLC, HAM, INC.,
and MICHAEL BRESSETTE

Defendants.

C.A. No.: PC-2022-_____

COMPLAINT

The State of Rhode Island *ex rel.* Peter F. Neronha, Attorney general, and for its Complaint against Defendants states:

I. INTRODUCTION

1. This is a consumer protection action brought to redress and restrain violations of the Rhode Island Deceptive Trade Practices Act (“DTPA”), R.I. Gen. Laws §§ 6-13.1.1–11.

2. Defendants HAM, INC. (“HAM”) and BTTR, LLC (“BTTR”), acting at the direction of Michael Bresette, have engaged in a yearslong pattern of unfair and deceptive trade practices targeted at Rhode Island consumers.

3. Defendants have routinely represented to consumers that they can provide licensed and effective home restoration services that will be paid for by insurance while simultaneously cutting corners, failing to secure needed permits, performing less work than they promised, performing improper work, and pocketing insurance proceeds.

4. Defendants have also routinely engaged in high-pressure sales techniques including showing up at the doors of consumers – often elderly – who have just experienced a household disaster and encouraging on-the-spot commitment to emergency work orders.

5. Defendants' contractor registration, and therefore their ability to legally engage in restoration work in Rhode Island, has been repeatedly suspended by the Department of Business Regulation ("the Department") and they have been forbidden from taking on new work in the state. Despite this, Defendants continue to knowingly flout their legal obligations and are actively soliciting work in Rhode Island that requires a valid registration.

6. As described further below, Defendants must be permanently prohibited from preying on any more Rhode Islanders and ordered to pay consumers back for work they never completed or improperly completed as well as for damage caused to their homes or structures.

II. PARTIES

7. Rhode Island Attorney General Peter F. Neronha is authorized to bring this action on behalf of the State of Rhode Island by R.I. Gen. Laws § 6-13.1, *et seq.* and R.I. Gen. Laws § 5-65-10(b).

8. Defendant BTTR is a domestic limited liability company registered with the Rhode Island Secretary of State ("Secretary of State"). BTTR's principal office is located at 10 Dorrance Street, Suite 700, Providence RI 02903. BTTR filed documents with the Secretary of State identifying Michael Bresette as the Manager and describing itself as a "Construction/Renovation and Remediation Company." As of the date of filing, BTTR is listed as an active company on the Rhode Island Secretary of State's website.

9. Defendant HAM is a domestic profit corporation registered with the Secretary of State. HAM with a principal office located at 1381 Cranston Street, Cranston, RI 02920. HAM has filed documents with the Secretary of State identifying Heather Kitterick as the President and describing itself as a "Construction/Renovation and Remediation Company." As of the date of filing, HAM is listed as an active company on the Rhode Island Secretary of State's website.

10. Defendant Michael Bresette ("Bresette") is the owner and operator of BTTR, directed and was a primary participant in the unfair and deceptive conduct described herein, and intentionally

directed that conduct toward Rhode Island consumers. Upon information and belief, Bresette is the signatory on numerous Mechanics' Liens filed against consumers in various cities and towns throughout the State of Rhode Island. On those Mechanics' Liens, Bresette typically signs as the manager of HAM.

III. JURISDICTION AND VENUE

11. This Court has subject-matter jurisdiction over this matter under R.I. Gen. Laws § 6-13.1-5.

12. This Court has personal jurisdiction over HAM because it is a Rhode Island business.

13. This Court has personal jurisdiction over BTTR because it is a Rhode Island business.

14. This Court has personal jurisdiction over Bresette because, upon information and belief, he is a Rhode Island resident. Furthermore, Bresette exercises complete control over BTTR and some control over HAM, and is the primary participant in the activities alleged herein, which were intentionally directed at residents of the State of Rhode Island.

15. This Court has personal jurisdiction over Kitterick because, upon information and belief, she is a Rhode Island resident. Furthermore, Kitterick is the President of and exercises control over BTTR, a Rhode Island Business.

IV. FACTUAL ALLEGATIONS

Defendants' Business Practices

16. Defendants are engaged in the business of taking advantage of vulnerable Rhode Island consumers after a disaster has befallen their home or property.

17. They follow a clear pattern as they prey on unsuspecting, often elderly Rhode Islanders.

18. First, they identify consumers who have recently suffered a disaster in their home – for example, a flooded sink or broken appliance which causes significant water damage. It appears that Defendants either work with other businesses that specialize in disaster response (like plumbers) to obtain that information or simply follow other businesses' vehicles to identify potential victims.

19. The Defendants' practices proceed as follows: Often within minutes of that other business leaving the premises, Defendants or their representatives knock on the door of the consumer residing there, offering to perform restoration and reconstruction work and pressuring them to sign documents hiring Defendants to perform contractor work on their home. Defendants sometimes assure consumers that all of their services will be covered by the consumer's insurance carrier.

20. Next, Defendants prepare inaccurate and inflated invoices for consumers and their insurance carriers, often for work they never performed, which they later use to demand payment from consumers either by threatening to impose a mechanics' lien or filing a court action against the consumer.

21. When Defendants do perform work on a consumer's home or property, they often merely start a project (such as demolishing a bathroom) before disappearing for months, fail to obtain proper permits, perform improper work, or tell consumers and insurers that they have performed work that they have not.

22. As the victims of this scheme attempt to recover from the disaster that damaged their home, they are now faced with a second, often worse debacle caused by their interactions with Defendants: They are left with incomplete, dangerous, or improper restoration and reconstruction work in their home and then face court action or a potential lien on their property if they attempt to withhold payment.

23. Bresette himself is at the center of this scheme. He is the person directly registered with the Department to perform contractor work in Rhode Island, and BTTR only operates using his registration.

24. Not only does he direct these unfair and deceptive activities, but he is a direct participant. For example, Bresette himself, sometimes operating under the alias "Michael Richardson," often prepares

these false invoices submitted to consumers and their insurers on behalf of BTTR and HAM, which contain charges for work that was not completed.

25. Bresette also personally signs mechanics' liens on behalf of Defendants when seeking to collect payment from consumers in Rhode Island.

Rhode Island's Regulation of Contractors

26. Rhode Island law imposes specific requirements on contractors operating within the State to protect consumers from unfair and deceptive business practices. These laws and regulations require, among other things, that contractors register with the Department of Business Regulations' Contractors Registration and Licensing Board ("CRLB") before soliciting or engaging in contractor work in Rhode Island. Violation of these laws offends public policy regarding how contractors should conduct business within the state.

27. When an individual or business holds themselves out as, undertakes, offers to undertake, or submits a bid to do work as a contractor in Rhode Island, they are representing that they are operating in compliance with the legal requirements of Title 5, Chapter 65 of the State's General Laws.

28. Pursuant to R.I. Gen. Laws § 5-65-3(a) no business or individual may undertake work as a contractor on a structure unless that person has a "current, valid certificate of registration" with the Contractors Registration and Licensing Board.

29. An individual is performing work that requires registration as a contractor if they "construct, alter, repair, improve, move over public highways, roads, or streets or demolish a structure or . . . perform any work in connection with the construction, alteration, repair, improvement, moving over public highways, roads, or streets or demolition of a structure, and the appurtenances thereto." See R.I. Gen. Laws § 5-65-1(3)(i).

30. Chapter 65 also prohibits a contractor from, among other things, violating an order of the CRLB, performing improper work, failing to secure permits prior to commencing work, and prohibits any unregistered individual or company from advertising that they are a “contractor.”

Department of Business Regulation’s Action Against Defendants for Harms Against Consumers in 2020

31. In 2020, the Department’s State Building Office received nine (9) complaints against HAM and Bresette, containing multiple allegations of violations of contractor registration laws, local building code violations, health and safety violations, as well as fraud and poor workmanship. *See* Exhibit A at ¶ 10.¹

32. The complaints include allegations of Bresette and HAM issuing invoices for work allegedly not completed, done without building permits, and done in an unsafe or incomplete manner, as well as for “contractual” disputes and negligent and improper work. *See* Exhibit A at ¶ 10.

33. As part of its review, the Department found considerable evidence of negligent and/or improper work; work performed without permits; items billed without the work having been performed; and incomplete work. *See* Exhibit A at ¶ 10.

34. The Department believed that Defendants have a “business practice” of soliciting consumers after a traumatic experience, gaining consumers’ trust in order to entice them sign a document that is then pointed to later as a “contract,” providing some services for the consumer, and then billing an insurance company for both the services Defendants performed and also for other goods and services that Defendants did not perform or provide. *See* Exhibit A at ¶ 15.

¹ Exhibit A is a true and correct copy of the Department’s February 22, 2021 Emergency Order *In the Matter of HAM, INC.*, R.I. Dep’t of Bus. Regul. (Feb. 22, 2021), available at <https://dbr.ri.gov/building-design-fire-professionals-board-accountancy/contractors-registration-and-licensing-board>.

35. The Director of the Department concluded that Defendants’ actions posed a serious threat to Rhode Island consumers and that Defendants are “acting to the detriment of the health, welfare, and safety of the general public.” *See* Exhibit A at ¶ 71.

36. Based on these findings, the Director of the Department suspended BTTR’s contractor registration certification and prohibited it from entering into “new written and/or verbal agreements with consumers to provide services.” *See* Exhibit A at 26–27.

Consent Decree

37. On March 24, 2021, the Department entered a Consent Decree (the “Decree”) with Defendants. *See* Exhibit B.²

38. As part of the Decree, Defendants agreed to internal and external monitoring in exchange for the Department’s reinstatement of BTTR’s suspended registration, allowing HAM to apply for renewal of its registration and allowing BTTR to continue operation in compliance with registration requirements. *See* Exhibit B at ¶¶ 13, 15–16.

Continued Harm Against Consumers in 2021

39. Despite the Department’s attempts to remediate and correct Defendants’ behavior toward Rhode Island consumers, Defendants continue to engage in unfair and deceptive practices.

40. Specifically, the Department’s Principal Investigator found as early as the summer of 2021 that Defendants continued their past practices despite the in-force Consent Order. For example:

- i. Near the end of June 2021, BTTR knocked on the door of an eighty-one-year-old woman who had just been visited by another plumber. BTTR entered into an emergency work agreement with the woman for mitigation of water damage

² Exhibit B is a true and correct copy of the referenced Consent Decree, R.I. Dep’t of Bus. Regul. (Mar. 24, 2021), available at <https://dbr.ri.gov/building-design-fire-professionals-board-accountancy/contractors-registration-and-licensing-board>).

from the plumbing leak. When the Department's inspector arrived on site, he observed that a tripping hazard had been created and left unmitigated for weeks, that many items BTTR had billed for were not completed, no permits had been applied for and that BTTR had received almost \$24,000 from the insurance company with only minimal work completed.

- ii. At the beginning of July 2021, BTTR undertook another job that greatly exceeded time estimates (and had not been completed in mid-November), was unpermitted, and involved removal of owner belongings that had not been restored for months.
- iii. In the middle of July 2021, BTTR showed up at the doorstep of a seventy-nine-year-old woman who had contacted a different plumber and received a signed emergency work agreement. The Department's inspector found that much of the work agreed to with the insurance company had never been done, including HEPA vacuuming of an area where broken asbestos tiles had been removed. The inspector also found that work that had been done had not been permitted or had been performed by unlicensed workers. The customer was never provided with a written contract describing the scope of the work and itemizing the cost for line items approved by the insurance company.
- iv. At the end of July 2021, BTTR undertook a sewage-spill-mitigation job but once again did not perform billed-for work, did not provide proof that billed-for services were used, and performed work negligently and in a potentially dangerous manner by not properly disposing of sewage waste, resulting in the denial of over \$6,000 in expenses billed to an insurance company.

- v. In August 2021, the Department received a consumer complaint against BTTR for incomplete services. The Department's inspection confirmed that BTTR had never fully removed the contents it promised to remove; it had not properly performed HEPA vacuuming, as evidenced by dust and debris left at the site; and personal protective equipment that had been billed for had never been used.

See July 19, 2022 Affidavit of James P. Cambio.³

41. The Consent Order has not deterred Defendants from continuing their past practices.

Defendants' Ongoing Practice of Illegally Soliciting and Performing Work As a Contractor in Rhode Island

42. Following Defendants' continuing pattern of unfair and unlawful behavior towards Rhode Island consumers, the Department moved to withdraw from the March 2021 Consent Decree. *See* Exhibit C, Order Reinstating Feb. 22, 2021 Emergency Order.⁴

43. On February 18, 2022, the CRLB hearing officer allowed the Department to withdraw from the Consent Decree, reinstated the 2021 Emergency Order suspending Defendants' registration, and prohibited Defendants from soliciting any new customers. *See* Exhibit C.

44. On March 8, 2022, a hearing was held during which the Department presented evidence regarding Defendants' continuing solicitation of new customers following the suspension of their registration eighteen (18) days earlier. *See* Exhibit D, Order re: Emergency Suspension.⁵

³ This affidavit was filed in support of the State's Motion for a Temporary Restraining Order and Preliminary Injunction filed contemporaneously with this Complaint.

⁴ Exhibit C is a true and correct copy of the referenced February 18, 2022 Order, R.I. Dep't of Bus. Regul. (Feb. 18, 2022), available at <https://dbr.ri.gov/building-design-fire-professionals-board-accountancy/contractors-registration-and-licensing-board>.

⁵ Exhibit D is a true and correct copy of the referenced March 11, 2022 Order, R.I. Dep't of Bus. Regul. (Mar. 11, 2022), available at <https://dbr.ri.gov/building-design-fire-professionals-board-accountancy/contractors-registration-and-licensing-board>.

45. The hearing officer found that Defendants had started at least two, and potentially three, new projects performing work in Rhode Island that require registration as a contractor in direct contravention of the CRLB's prior order. *See* Exhibit D at 8–9.

46. On March 11, 2022, the CRLB issued an order immediately suspending Defendants' contractor registration, ordering them not to engage “in any work that requires registration” with the CRLB, to transfer current jobs to other registered contractors, and to seek “per job” registration for certain outstanding jobs. *See* Exhibit D at 9–10.

47. Despite this suspension, BTTR is continuing to solicit new business for work as a contractor in Rhode Island.

48. For example, on June 1, 2022, Allstate Insurance Company received a claim from Gina Graziano stating that she was filing a claim on behalf of BTTR related to an overflow from a clogged sink on May 26, 2022 at a Portsmouth residence. Ms. Graziano indicated that BTTR would be conducting repair or restoration work on the structure.

49. Additionally, BTTR entered into an Emergency Work Agreement with the consumer which stated that BTTR is a “contractor,” listed Defendant Bresette's suspended contractor registration number, and was signed on behalf of BTTR by Rhonald Pimentel.

50. BTTR also provided Allstate with a repair estimate which included construction and demolition work such as sink and cabinet installation as well as electrical and plumbing work. This type of work requires registration as a contractor in Rhode Island.

51. Similarly, the National Insurance Crime Bureau has identified a claim pursued by BTTR on behalf of a Coventry homeowner for damage that occurred on March 28, 2022. Liberty Mutual referred the matter to the bureau after BTTR billed for removal work they failed to perform and for monitoring performed by equipment that was never placed.

52. BTTR has also signed an agreement to perform contractor work on a Rhode Island residence as recently as July 6, 2022.

Other Actions Against Defendants

53. On February 25, 2020, a Criminal Information was filed against Bresette alleging that Bresette did not maintain workers' compensation coverage for BTTR. *See* Exhibit A, Emergency Order at ¶ 11; P2-2020-0683A.

54. On March 25, 2021, Amity Services, LLC ("Amity") filed a complaint against HAM and Bresette alleging breach of contract, breach of the covenant of good faith and fair dealing, and unjust enrichment related to work performed by Amity upon request by HAM for Bresette's home. *See* PC-2021-02137.

55. On August 18, 2021, 911 Restoration Enterprises, Inc. and 911 Restoration Franchise, Inc. filed a complaint against Bresette and BTTR for breach of contract, statutory trademark infringement, false designation of origin, common law trademark infringement, unfair competition under the Lanham Act, and unfair competition and false advertising. *See* PC-2021-05425. In their complaint, 911 Restoration alleged that after Bresette entered into a franchise agreement, he failed to pay required royalty payments or provide required financial documents. As alleged, after his franchise agreement was terminated, Bresette continued to advertise and operate as a 911 Restoration franchise.

Bresette's History of Misconduct As an Insurance Adjuster

56. Bresette has previously been individually licensed as an insurance adjuster in Rhode Island. *See* Exhibit A at ¶ 9.

57. On December 12, 2011, Bresette was charged with five counts of insurance fraud, two counts of obtaining money under false pretenses, and one count of larceny. *See* Exhibit A at ¶ 9.

58. On December 29, 2011, the Department issued an Order to Show Cause related to that criminal action. *See* Exhibit A at ¶ 9.

59. On January 9, 2012, the Department held a conference, and evidence of seven consumer complaints filed against Bresette were entered, alleging misconduct against Bresette as an insurance adjuster. *See* Exhibit A at ¶ 9.

60. The Department revoked Bresette's insurance adjuster license, and on January 7, 2013, that revocation was upheld by Superior Court Justice Nugent. *See* Exhibit A at ¶ 9.

V. COUNTS

COUNT I: VIOLATION OF THE RHODE ISLAND DECEPTIVE TRADE PRACTICES ACT R.I. GEN. LAWS § 6-13.1-2

61. Paragraphs 1 through 60 are incorporated herein.

62. Defendants' behaviors constitute a violation of the Rhode Island Deceptive Trade Practices Act.

63. Defendants' practices of engaging in improper sales tactics, performing less work than promised, performing improper work, taking payment for work they never completed, failing to secure proper permits for work performed, soliciting contractor work without a valid registration, and violations of Title 5, Chapter 65 are unfair and deceptive to consumers. *See* R.I. Gen. Laws 6-13.1-1(6)(xiii).

64. Defendants' solicitation of contractor work and representations that they are a "contractor" in Rhode Island causes likelihood of confusion or of misunderstanding as to their lack of a valid registration. *See* R.I. Gen. Laws 6-13.1-1(6)(iii) and (xii).

65. Therefore, Defendants engaged in unfair acts or practices in the conduct of trade or commerce, in violation of R.I. Gen. Laws § 6-13.1-2, as defined by R.I. Gen. Laws § 6-13.1-1(6).

COUNT II: RESTRAINT OF PROHIBITED ACTS UNDER DECEPTIVE TRADE PRACTICES ACT R.I. GEN. LAWS § 6-13.1-5

66. Paragraphs 1 through 65 are incorporated herein.

67. Defendants are using and are about to use methods, acts, and practices declared to be unlawful by R.I. Gen. Laws § 6-13.1-2.

68. Proceedings to restrain such acts are in the public interest.

69. Defendants have also engaged in unfair and deceptive trade practices following the revocation of their registration to engage in contractor work in Rhode Island.

70. Therefore, the appointment of a receiver for BTTR and HAM is appropriate to protect assets that may be used to restore to moneys or property to any person that may have been harmed by Defendants' conduct.

VI. PRAYER FOR RELIEF

WHEREFORE, the State of Rhode Island requests that this Honorable Court, after trial on the merits, grant the following relief:

- A. Enter an order permanently enjoining Defendants from (1) engaging in, soliciting, or offering construction, restoration, or any other services on structures in Rhode Island, (2) taking any step in furtherance of collection or deposit of any money from consumers, including those with contracts with any of the Defendants, and (3) filing any mechanic's lien or judicial action seeking judgment or to enforce a judgment against any party without seeking the Court's prior approval;
- B. Order Defendants to make each and every Rhode Island consumer whole.
- C. Order Defendants to pay the State's costs and attorneys' fees.
- D. Order Defendants to pay a civil penalty of up to ten thousand dollars (\$10,000.00) per violation of the Deceptive Trade Practices Act as provided by R.I. Gen. Laws § 6-13.1-8.
- E. Order any other relief that the Court deems appropriate.

Respectfully submitted,

STATE OF RHODE ISLAND,
BY ITS ATTORNEY

PETER F. NERONHA,
ATTORNEY GENERAL,
BY HIS ATTORNEY

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CERTIFICATION OF SERVICE

I, the undersigned, hereby certify that on the Nineteenth day of July, 2022, I filed this document electronically and it is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Stephen N. Provazza