

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
Division of Law - 5th floor
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101
By: James J. Savage
Assistant Attorney General
(973) 877- 1280

FILED

MAR 21 2009

Division of Consumer Affairs

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

**IN THE MATTER OF AN INVESTIGATION
BY THE NEW JERSEY DIVISION OF
CONSUMER AFFAIRS**

of

Garage Door Parts, LLC
and Cynthia Koslosky & Ricardo Aquino
Individually and as
Owners of Garage Door Parts, LLC

Administrative Action
I No. 08100165

Consent Order

This matter having been opened by the Division of Consumer Affairs, Office of Consumer Protection (hereinafter referred to as "Consumer Affairs" or "Division"), as an investigation to ascertain whether violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (hereinafter referred to as "CFA" or the "Act"), the New Jersey Mail Order Regulations N.J.A.C. 13:45A-1.1 et seq., (hereinafter referred to as "Mail Order

Regulations”), have been or are being committed by Garage Door Parts, LLC and Cynthia Koslosky and Ricardo Aquino whose primary place of business is 127 Columbia Avenue, Passaic, New Jersey 07055 (hereinafter collectively referred to as “Respondents”) and the Division and Respondents (hereinafter collectively referred to as the “Parties”) having reached an amicable agreement thereby resolving the issues in controversy and concluding this matter without the need for further action, and Respondents having voluntarily cooperated and consented to the entry of the within order (hereinafter referred to as the “Consent Order”) and for good cause shown,

IT IS on this 21st day of MAR, ~~2008~~ ²⁰⁰⁹ ORDERED and AGREED as

follows:

BUSINESS PRACTICES

1. Respondents, their principals, officers, agents, representatives and employees shall not engage in any unfair or deceptive acts or practices in the conduct of their business in the State of New Jersey and shall comply with such state laws, rules and regulations as now constituted or as may hereafter be amended, including but not limited to, the CFA, the Mail Order Regulations, in connection with Mail Orders.

2. Respondents shall cease and desist from engaging in the following:

Accepting money through the mail or any electronic transfer medium, for merchandise ordered by mail, telephone, facsimile transmission or electronic mail and then permitting six weeks to elapse without either:

- (a) Delivering or mailing merchandise in violation of N.J.A.C. 13:45A-1.1(b)1;
- (b) Making or offering a full refund in violation of N.J.A.C. 13:45A-1.1(b)2;

(c) Sending the consumer a letter or notice of the duration of an expected delay or the substitution of merchandise of equivalent or superior quality, and offering to send a refund within one week if so requested of an expected delay in the arrival of the product in violation of N.J.A.C. 13:45A-1.1(b)3; or

(d) Sending the consumer substituted merchandise of equivalent or superior quality, together with:

i. A written notice offering, without reservation, to accept the return of the merchandise at the seller's expense within 14 days of receipt of the merchandise and, upon request, the consumer's choice of either, a refund of cash paid, including the amount of postage to return the item, or a credit; and

ii. A postage-paid letter or card on which the consumer may indicate whether he wishes the purchase price to be refunded or credited to his account within 14 days of receipt of the letter or card by the seller in violation of N.J.A.C. 13:45A-1.1(b)4.

3. Specifically, Respondents shall within six weeks of accepting money through the mail or any electronic transfer medium, for merchandise ordered by mail, telephone, facsimile transmission or electronic mail:

(a) Deliver or mail merchandise pursuant to N.J.A.C. 13:45A-1.1(b)1;

(b) Make or offer a full refund pursuant to N.J.A.C. 13:45A-1.1(b)2;

(c) Send the consumer a letter or notice of the duration of an expected delay or substitute merchandise of equivalent or superior quality, and offer to send a refund within one week if so requested of an expected delay

in the arrival of the product pursuant to N.J.A.C. 13:45A-1.1(b)3; or

(d) Send the consumer substituted merchandise of equivalent or superior quality, together with:

i. A written notice offering, without reservation, to accept the return of the merchandise at the seller's expense within 14 days of receipt of the merchandise and, upon request, the consumer's choice of either, a refund of cash paid, including the amount of postage to return the item, or a credit; and

ii. A postage-paid letter or card on which the consumer may indicate whether he wishes the purchase price to be refunded or credited to his account within 14 days of receipt of the letter or card by the seller pursuant to N.J.A.C. 13:45A-1.1(b)4.

RESTITUTION

4. Attached as Exhibit A is a list prepared by the Division that provides pertinent information as to each consumer. Within (15) fifteen days of entry into this Consent Order Respondent shall reach out to each consumer and either provide a full refund for merchandise ordered or deliver the merchandise that was ordered. Within (30) days of entry into this Consent Order the Respondent shall provide the Division documentation evidencing whether a full refund or the delivery of merchandise ordered has been provided to each consumer. Upon receipt of such evidence, the complaint of each consumer who has received a refund or the merchandise ordered shall be deemed closed.

FUTURE CONSUMER COMPLAINTS

5. For a period of twelve (12) months from the entry of this Consent Order, Consumer Affairs will forward to Respondents any consumer complaints received by Consumer Affairs within thirty (30) days of receipt of such complaint. Complaints received by any county or municipal Consumer Affairs Local Assistance (CALA) office will be forwarded to Consumer Affairs which will then forward them to Respondents within 30 days of Consumer Affairs' receipt from the county or municipal CALA office. Complaining consumers will be notified by Consumer Affairs that their complaints have been forwarded to Respondents; that they should expect a response from Respondents within 30 days; and of their right to arbitrate the complaint if a settlement with Respondents cannot be reached.

6. Within thirty (30) days of receiving said consumer complaints, Respondents will send a written response to each complaining consumer, with a copy to the New Jersey Division of Consumer Affairs, Office of Consumer Protection, Attention: Case Management Tracking Supervisor, 124 Halsey Street, P.O. Box 45025, Newark, New Jersey 07101.

7. If Respondents' written response does not dispute the consumer's complaint or the relief sought by the consumer, Respondents' response to the consumer shall include all documents necessary or appropriate to satisfy the consumer's requested relief, including payment or credit.

8. If Consumer Affairs has not received notice from Respondents that a forwarded complaint has been settled on or before the forty-fifth (45) day after the complaint is transmitted to the Respondents, the complaint shall be forwarded to the ADR Unit of the Division of Consumer Affairs to reach a resolution of the complaint through binding arbitration. Thereafter, the matter shall proceed in accordance with the ADR guidelines attached as Exhibit B.

Respondents agree herein to participate in this arbitration process and be bound by the arbitrator's decision. Respondents further agree to be bound by the immunity provisions of the New Jersey Arbitration Act, N.J.S.A. 2A:23B-14, and the New Jersey Tort Claims Act, N.J.S.A. 59:10A-1 et seq. In the event that Respondents fail or refuse to participate in the arbitration process with the consumer, the arbitrator may enter a default against Respondents. Respondents shall pay any and all arbitration awards within 30 days of the arbitrator's decision unless otherwise specified in writing in the arbitration award. Failure or refusal to participate in the arbitration process or to timely pay an award shall constitute a violation of this Consent Order. If a consumer refuses to participate in the ADR program, the consumer's complaint shall be deemed closed for purposes of this Consent Order.

9. After the initial year, the complaint resolution procedure set forth above will automatically renew for successive one year periods unless either party provides written notice of termination within thirty (30) days of the anniversary date of this agreement. Written termination under this provision of the Consent Order shall be provided as follows: for the Division, written notice shall be forwarded via certified mail, return receipt requested, to the New Jersey Division of Consumer Affairs, Office of Consumer Protection, Attention: Deputy Executive Director, 124 Halsey Street, P.O. Box 45025, Newark, New Jersey 07101.

10. Nothing contained in this Consent Order shall be deemed to waive any right of the Division of Consumer Affairs or the Attorney General to take any civil or administrative action deemed appropriate in the best interest of the public with respect to any complaint received regarding Respondents after the date of this Consent Order.

PAYMENT TO THE STATE

11. Respondents shall pay the Division of Consumer Affairs an amount of Twenty Six Thousand Two Hundred Fifty Dollars (\$26,250.00) as a civil penalty pursuant to N.J.S.A. 56:8-13 and One Thousand Three Hundred Forty Four Dollars (\$1,344.00) as reimbursement for the Division's investigative costs pursuant to N.J.S.A. 56:8-11.

12. The aforestated payments for penalties and costs shall be made by certified check, attorney trust account check or other guaranteed funds made payable to the "New Jersey Division of Consumer Affairs" and shall be delivered to the following address:

Attention: Supervisor

Case Management Tracking
New Jersey Department of Law and Public Safety
Division of Consumer Affairs
124 Halsey Street
P.O. Box 45025
Newark, NJ 07101

13. Failure by Respondents to make the payment to the State in the time prescribed by this Consent Order shall constitute a breach of this Consent Order. In the event of such breach, the Division may take whatever additional action it deems necessary and appropriate under the circumstances, including, but not limited to, seeking an Order from the Superior Court compelling compliance and seeking additional penalties, costs and attorneys fees.

14. If, after the signing of this Consent Order, Respondents engage in any acts or practices which constitute a violation of the Consumer Fraud Act, the Regulations or this Consent Order, Respondents will be subject to the imposition of enhanced penalties pursuant to N.J.S.A. 56:8-13 or N.J.S.A. 56:8-18, without prejudice to Respondents' right to present evidence in mitigation and affirmative defenses.

DUTY TO COOPERATE

15. Respondents shall have a continuing duty to provide assistance and/or information as requested by the Division in connection with their sales activities. Respondents shall also have a continuing duty to cooperate in any inquiry, investigation or hearing conducted by the Division in connection with the advertising or selling of merchandise and/or furniture within this State.

16. Failure by Respondents to comply with any of the requirements of this Consent Order, including, but not limited to, the payment provisions of Paragraph 13 shall constitute grounds for the Division to take disciplinary action against Respondent.

GENERAL PROVISIONS

17. Nothing contained in this Consent Order shall be construed to limit or affect the rights of any persons or entities who are not parties to this Consent Order with respect to any of the matters contained herein.

18. Nothing contained herein shall in any manner or fashion be construed to limit or affect any position that the parties may take in any future or pending action not specifically encompassed herein.

19. If any provision of this Consent Order or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Consent Order or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision of this Consent Order shall be valid and enforced to the fullest extent permitted by law.

20. This Consent Order resolves all claims and causes of action against Respondents

for violations of the CFA and the regulations promulgated pursuant thereto as well as the Mail Order Regulations which were known by the Division's Office of Consumer Protection through September 16, 2008.

21. The parties represent that an authorized representative of each has signed this Consent Order with full knowledge, understanding and acceptance of its terms and that this person has done so with the authority to legally bind the respective parties.

22. This Consent Order constitutes the entire agreement between the parties hereto and shall bind the parties hereto and their representatives, officers, directors, agents, employees, successors and assigns.

23. Respondents shall not represent or imply that any advertising procedure or other act or practice hereinafter used or engaged in by Respondents has been required or approved, in whole or part, by the Attorney General or the Division of Consumer Affairs or any of the State's agencies or agents.

24. The parties acknowledge that for purposes of enforcement of this Consent Order, New Jersey law shall govern the terms and provisions herein.

25. The Division has advised the Respondent to seek the advice of an attorney prior to entering into this agreement.

26. This Consent Order constitutes a final agency action and shall be effective upon filing.

27. Respondents acknowledges that this Consent Order is a public document subject to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 to -13.

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY

BY: 

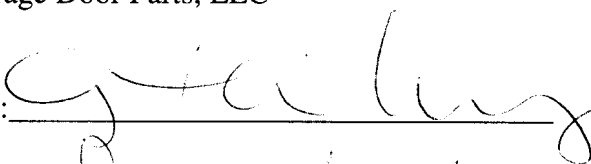
DATED: 3/21/09

David Szuchman, Director
New Jersey Division of Consumer Affairs

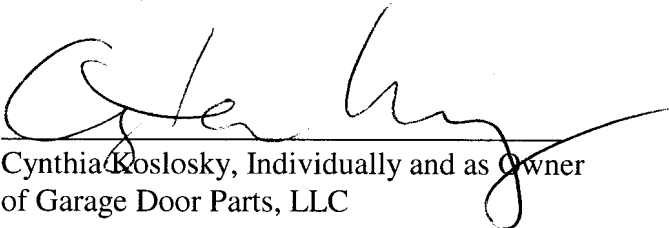
The undersigned has read this Consent Order, understands it, and agrees to be bound by its terms. Consent is hereby given as to the form and entry of this Order.

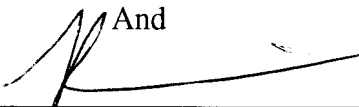
Respondents:

Garage Door Parts, LLC

BY:  DATED: 2/20/08

TITLE: President

 DATED: 2/20/08
Cynthia Koslosky, Individually and as Owner
of Garage Door Parts, LLC

And

Ricardo Aquino, Individually and as Owner
of Garage Door Parts, LLC