STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION SUPERIOR COURT

CAUSE NO. 49D07-0611-PL-047048

STATE OF INDIANA,

Plaintiff,

v.

ANTHONY LEON HUGHES,
also known as
LONNIE HUGHES,
Individually and doing business as
HUGHES WATER WELL DRILLING, and
HUGHES WATER WELL DRILLING &
PUMP SERVICES

MILIADEE HUGHES,
also known as
DEE HUGHES,
Individually and doing business as
CARRIE & GARY'S WATER WELL DRILLING
AND PUMP SERVICE,
C & R WELL DRILLING,
C.C. WELL DRILLING & PUMP SERVICE;
NORTH STAR WELL & PUMP; and
BUDGET PLUMBING, INC., and

BUDGET PLUMBING, INC.,

Defendant.

FILED
(207) NOV 05 2007
Elizabeth A. White
CLERK OF THE MARION CIRCUIT COURT

SUMMARY JUDGMENT AGAINST THE REMAINING DEFENDANT, ANTHONY LEON HUGHES

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, having filed its Motion for Summary Judgment and its Memorandum and Designation of Evidence in Support of Plaintiff's motion, and the

Court having conducted a hearing on the same, now **GRANTS** the Plaintiff's motion and makes the following findings of undisputed facts and conclusions of law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Since at least August 8, 2001, the Defendant, Anthony Leon Hughes, has acted as a home improvement supplier by engaging in or soliciting home improvement transactions.

2. On January 10, 1996, the Marion Superior Court entered a Default Judgment against the Defendant, enjoining the Defendant from committing the following acts:

a. Soliciting to engage in water will drilling without a license as required by law;

b. Engaging in water well drilling without a license required by law;

c. Engaging in water well pump service without a permit required by law;

d. Representing to consumers that the Defendant's consumer transactions have the characteristics and benefits of being completed within a reasonable period of time when they do not and the Defendant knows or should reasonably know they do not;

e. Representing to consumers that the Defendant's consumer transactions have the characteristics and benefits of having new parts and supplies when the Defendant knows or should reasonably know that he will not use new parts and supplies;

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e. Representing to consumers that the Defendant's consumer transactions have the characteristics and benefits of having new parts and supplies when the Defendant knows or should reasonably know that he will not use new parts and supplies;

f. Representing that the Defendant has a sponsorship, approval, or affiliation with any organization or association in consumer transactions when he does not and knows or should reasonably know that he does not; and

g. Entering into residential home improvement contracts which are in violation of the Indiana Home Improvement Contracts Act, Ind. Code § 24-5-11-1, *et seq.*

3. While the Defendant was incarcerated from February 25, 2003 - March 12, 2004 and from January 21, 2006 - January 22, 2007, he was not incarcerated during any time periods that are relevant to this action.

4. On June 20, 2005, the Defendant personally entered into his first contract with Rob Strickland ("Strickland") to replace an old well pump for a total price of Two Thousand Three Hundred Dollars ($2,300.00).

5. Shortly after beginning the work, the Defendant personally entered into a second contract with Strickland to drill and install a new well for Five Thousand Two Hundred Dollars ($5,200.00).

6. On June 28, 2005, the Defendant personally entered into a contract with James Bumb to replace a well pump and run a 400' water line for a total cost of Three Thousand Two Hundred Dollars ($3,200.00).

7. On July 30, 2005, the Defendant personally entered into his contract with Roberta Baker to drill a well on her property for a total price of Four Thousand and Fifty Dollars ($4,050.00).

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Court having conducted a hearing on the same, now **GRANTS** the Plaintiff's motion and makes the following findings of undisputed facts and conclusions of law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Since at least August 8, 2001, the Defendant, Anthony Leon Hughes, has acted as a home improvement supplier by engaging in or soliciting home improvement transactions.

2. On January 10, 1996, the Marion Superior Court entered a Default Judgment against the Defendant, enjoining the Defendant from committing the following acts:

a. Soliciting to engage in water will drilling without a license as required by law;

b. Engaging in water well drilling without a license required by law;

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d. Representing to consumers that the Defendant's consumer transactions have the characteristics and benefits of being completed within a reasonable period of time when they do not and the Defendant knows or should reasonably know they do not;

e. Representing to consumers that the Defendant's consumer transactions have the characteristics and benefits of having new parts and supplies when the Defendant knows or should reasonably know that he will not use new parts and supplies;

f. Representing that the Defendant has a sponsorship, approval, or affiliation with any organization or association in consumer transactions when he does not and knows or should reasonably know that he does not; and

g. Entering into residential home improvement contracts which are in violation of the Indiana Home Improvement Contracts Act, Ind. Code § 24-5-11-1, *et seq.*

3. While the Defendant was incarcerated from February 25, 2003 - March 12, 2004 and from January 21, 2006 - January 22, 2007, he was not incarcerated during any time periods that are relevant to this action.

4. On June 20, 2005, the Defendant personally entered into his first contract with Rob Strickland ("Strickland") to replace an old well pump for a total price of Two Thousand Three Hundred Dollars ($2,300.00).

5. Shortly after beginning the work, the Defendant personally entered into a second contract with Strickland to drill and install a new well for Five Thousand Two Hundred Dollars ($5,200.00).

6. On June 28, 2005, the Defendant personally entered into a contract with James Bumb to replace a well pump and run a 400' water line for a total cost of Three Thousand Two Hundred Dollars ($3,200.00).

7. On July 30, 2005, the Defendant personally entered into his contract with Roberta Baker to drill a well on her property for a total price of Four Thousand and Fifty Dollars ($4,050.00).

8. The Defendant is a home improvement supplier, as defined by Ind. Code § 14-5-11-6, has regularly engaged in home improvements, as defined by Ind. Code § 24-5-11-3, and his contracts with Strickland, Bumb, and Baker constitute home improvement contracts, as defined by Ind. Code § 24-5-11-3.

9. The Defendant failed to provide a home improvement contract containing the address of the residential property that is the subject of the home improvement in his second contract with Strickland, as required by Ind. Code § 24-5-11-10(a)(1).

10. The Defendant failed to provide a home improvement contract containing the name and address of the Defendant and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed in his first contract with Strickland, the name of the Defendant and the telephone number and name of any agent to whom consumer problems and inquiries could be directed in his second contract with Strickland, and the telephone number and name of any agent to whom consumer problems and inquiries could be directed in his contract with Bumb, as required by Ind. Code § 24-5-11-10(a)(2).

11. The Defendant failed to provide the date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract in his first contract with Strickland, his second contract with Strickland, and his contract with Bumb, or provide any time limitation on the consumer's acceptance of the home improvement contract in his contract with Baker, as required by Ind. Code § 24-5-11-10(a)(3).

12. The Defendant failed to provide a home improvement contract containing a reasonably detailed description of the home improvements to be performed, or a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications in his first contract with Strickland, as required by Ind. Code § 24-5-11-10(a)(4) and (5).

13. The Defendant failed to provide a home improvement contract containing the approximate starting and completion dates of the home improvements in his second contract with Strickland and his contract with Baker, as required by Ind. Code § 24-5-11-10(a)(6).

14. The Defendant failed to provide a home improvement contract containing a statement of any contingencies that would materially change the approximate completion date in his first and second contract with Strickland, his contract with Bumb, and his contract with Baker, as required by Ind. Code § 24-5-11-10(a)(7).

15. The Defendant failed to provide a home improvement contract containing signature lines for the Defendant or his agent and for each consumer who was a party to the home improvement contract with a legible printed or a typed version of that person's name placed directly after or below the signature in his first and second contract with Strickland, his contract with Bumb, and his contract with Baker, as required by Ind. Code § 24-5-11-10(a)(9).

16. The Defendant' failure to comply with the Indiana Home Improvement Contracts Act, Ind. Code. § 24-5-11-10, in his transactions with Consumers Strickland, Bumb, and Baker, as referenced above, constitutes a deceptive act, pursuant to Ind. Code

§ 24-5-11-14, and subjects the Defendant to the remedies and penalties of the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1, *et seq.*

17. The Defendant has regularly engaged in business as a home improvement contractor, has engaged in consumer transactions with Consumers Strickland, Bumb, and Baker, as defined by Ind. Code § 24-5-0.5-2(a)(1), and is a "supplier", as defined by Ind. Code § 24-5-0.5-2(a)(3).

18. The Defendant's representations to Consumers Strickland, Bumb, and Baker, that the consumer transactions had sponsorship, approval, performance, characteristics, accessories, uses, or benefits, they did not have, when the Defendant knew or reasonably should have known the transactions did not have such, constitute deceptive acts, pursuant to Ind. Code § 24-5-0.5-3(a)(1).

19. The Defendant's representation to Bumb that repairs were needed, when the repairs were not necessary and the Defendant knew or reasonably should have known such repair or replacement was not needed, constitutes a deceptive act, pursuant to Ind. Code § 24-5-0.5-3(a)(5).

20. The Defendant's presumed representations to Consumers Strickland, Baker, and Bumb, that he would be able to complete the work within a reasonable period of time, when he knew or reasonably should have known he would not, constitute deceptive acts, pursuant to Ind. Code § 24-5-0.5-3(a)(10).

21. The Defendant's failure to obtain the necessary well drilling license prior to soliciting the well drilling contract and/or commencing any work under his contract with Strickland and Baker, constitutes deceptive acts, pursuant to Ind. Code § 24-5-0.5-10(a)(1).

22. The Defendant's failure to obtain the a required pump permit from the Marion County Health and Hospital Corporation prior to soliciting the contract and/or commencing any work under his contracts with Strickland and Baker, constitutes deceptive acts, pursuant to Ind. Code § 24-5-0.5-10(a)(1).

23. Strickland paid the Defendant a total of Three Thousand Eight Hundred Dollars ($3,800.00), including One Thousand Eight Hundred Dollars ($1,800.00) as payment in full for the first contract and an additional Two Thousand Dollars ($2,000.00) as a down payment for the second contract.

24. The Defendant started the work on Strickland's home, but then told Strickland a new well needed to be drilled and installed. The Defendant never started the work for the second contract. Strickland is entitled to consumer restitution in the amount of Three Thousand Eight Hundred Dollars ($3,800.00), pursuant to Ind. Code § 24-50.5-4(c)(2).

25. Bumb paid the Defendant One Thousand Six Hundred Dollars ($1,600.00) as a down payment for the work the Defendant was to perform on his home.

26. The Defendant did not do any work on Bumb's home, so Bumb is entitled to consumer restitution in the amount of One Thousand Six Hundred Dollars ($1,600.00), pursuant to Ind. Code § 24-50.5-4(c)(2).

27. Baker paid the Defendant Two Thousand and Twenty-Five Dollars ($2,025.00) as a down payment for the work the Defendant was to perform on her home.

28. The Defendant did not do any work on Baker's home, so Baker is entitled to consumer restitution in the amount of Two Thousand and Twenty-Five Dollars ($2,025.00), pursuant to Ind. Code § 24-50.5-4(c)(2).

29. Cancellation of the Defendant's contracts with Consumers Strickland, Baker, and Bumb, pursuant to Ind. Code § 24-5-0.5-4(d), is also an appropriate remedy for the Defendant's failure to perform the contracted work.

30. The State of Indiana is entitled to its reasonable costs of investigation and prosecution of this action, pursuant to Indiana Code § 24-5-0.5-4(g).

31. The Office of the Attorney General has spent Eleven and Four-Tenths (11.40) Hours in the investigation and prosecution of this case and has incurred costs totaling One Thousand Eight Hundred Ninety-Seven Dollars and Sixty-Five Cents ($1,897.65).

32. The Defendant's fifteen (15) deceptive acts identified above constitute knowing violations of the Deceptive Consumer Sales Act, pursuant to Ind. Code § 24-5-0.5-4(g), and subject the Defendant to a civil penalty of a fine not exceeding Five Thousand Dollars ($5,000.00) per violation.

33. The Defendant's fifteen (15) deceptive acts identified above constitute intentional violations of the Deceptive Consumer Sales Act, pursuant to Ind. Code § 24-5-0.5-8, and subject the Defendant to a civil penalty of a fine not exceeding Five Hundred Dollars ($500.00) per violation.

34. The Defendant's fifteen (15) deceptive acts identified above violate the prior Court-ordered injunction and subject the Defendant to a civil penalty of not more than Fifteen Thousand Dollars ($15,000.00) per violation, pursuant to Ind. Code § 24-5-0.5-4(f).

35. There is no genuine issue as to any material fact and the Plaintiff is entitled to Summary Judgment as a matter of law.

JUDGMENT

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED the Plaintiff's Motion for Summary Judgment is **GRANTED** in favor of the Plaintiff, State of Indiana, and against the Defendant, Anthony Leon Hughes.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, pursuant to Ind. Code § 24-5-0.5-4(c)(1), the Defendant and his agents, representatives, employees, successors and assigns are permanently enjoined from engaging in the following conduct in violation of Ind. Code § 24-5-11-1, *et seq.*, and Ind. Code § 24-5-0.5-1, *et seq.*:

1. entering into a home improvement contract, as defined by Ind. Code § 24-5-11-4, that is not in writing and does not contain the following:
   a) The name of the consumer and the address of the residential property that is the subject of the home improvement;
   b) The names and addresses of the Defendant and each of the telephone numbers and names of any agent to whom consumer problems and inquires can be directed;
   c) The date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract;
   d) A reasonably detailed description of the proposed home improvements, and if the description does not include the specifications for the home improvement, a statement that the

specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;

e) The approximate starting and completion date of the home improvements;

f) A statement of any contingencies that would materially change the approximate completion date;

g) The home improvement contract price; and

h) Signature lines for the Defendant or the Defendant's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or a typed version of that person's name placed directly after or below the signature;

2. in the course of entering into home improvement transactions, failing to agree unequivocally by written signature to all of the terms of a home improvement contract before the consumer signs the home improvement contract and before the consumer can be required to make any down payment;

3. in the course of entering into home improvement transactions, failing to provide a completed home improvement contract to the consumer before it is signed by the consumer;

4. representing, expressly or by implication, the subject of a consumer transaction has sponsorship, approval, characteristics, accessories, uses, or benefits it does not have which the Defendant knows or reasonably should have known it does not have;

5. representing, expressly or by implication, the replacement or repair constituting the subject of a consumer transaction is needed, if it is not and if the Defendant knows or should reasonably know it is not;

6. representing, expressly or by implication, the Defendant is able to deliver or complete the subject of a consumer transaction within a reasonable period of time, when the Defendant knows or reasonably should know he cannot; and

7. soliciting or engaging in a home improvement transaction without a license or permit required by law.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that judgment is entered in favor of the Plaintiff, State of Indiana, and against the Defendant, Anthony Leon Hughes, as follows:

1) The contracts entered into by the Defendant and Consumers Robert Strickland, James Bumb, and Roberta Baker, are cancelled pursuant to Ind. Code § 24-5-0.5-4(d).

2) The Defendant shall pay consumer restitution, pursuant to Ind. Code § 24-5-0.5-4(c)(2), in the total amount of Seven Thousand Four Hundred and Twenty-Five Dollars ($7,425.00), payable to the Office of the Attorney

General, for allocation and distribution to the following consumers in the following amounts:

1.	Robert C. Strickland of Indianapolis, Indiana	$ 3,800.00;
2.	James Bumb of Indianapolis, Indiana	$ 1,600.00; and
3.	Roberta J. Baker of Indianapolis, Indiana	$ 2,025.00.
	Total	**$ 7,425.00**

3) The Defendant shall pay the Office of the Attorney General its costs in investigating and prosecuting this action, pursuant to Ind. Code § 24-5-0.5-4(c)(3), in the amount of One Thousand Eight Hundred Ninety-Seven Dollars and Sixty-Five Cents ($1,897.65).

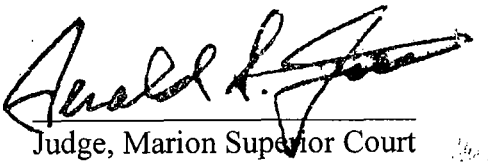
4) The Defendant shall pay civil penalties, pursuant to Ind. Code § 24-5-0.5-4(g), for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of Seventy-Five Thousand Dollars ($75,000.00), payable to the State of Indiana.

5) The Defendant shall pay civil penalties, pursuant to Ind. Code § 24-5-0.5-8, for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of Seven Thousand Five Hundred Dollars ($7,500.00), payable to the State of Indiana.

6) The Defendant shall pay civil penalties, pursuant to Ind. Code § 24-5-0.5-4(f), for the Defendant's violation of the terms of a prior injunction issued pursuant to Ind. Code § 24-5-0.5-4(c), in the amount of Two Hundred and Twenty-Five Thousand Dollars ($225,000.00), payable to the State of Indiana.

A total monetary judgment in the amount of Three Hundred Sixteen Thousand Eight Hundred Twenty-Two Dollars and Sixty-Five Cents ($316,822.65) shall therefore be entered in favor of the Plaintiff, State of Indiana, and against the Defendant, Anthony Leon Hughes.

All of which is **ORDERED, ADJUDGED** and **DECREED,** this 5 day of Nov, 2007.



Judge, Marion Superior Court

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