

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA ex rel. )  
THOMAS J. MILLER, 99AG25112 )  
ATTORNEY GENERAL OF IOWA )  
  
Plaintiff, )  
v. )  
  
MEGAN LEANNE TROYER, )  
TIMOTHY RYAN MARLOW AND )  
IQ RENOVATION, L.L.C., )  
  
Defendants. )

EQUITY NO. CE 68630

CONSENT JUDGMENT

FILED  
POLK COUNTY, IA  
12 MAY 24 AM 10:29  
CLERK DISTRICT COURT

This Court, recognizing that the State of Iowa, by Attorney General Thomas J. Miller and Assistant Attorney General Benjamin E. Bellus, and the Defendants, Megan Leanne Troyer (now known as Megan Troyer Marlow), Timothy Ryan Marlow and IQ Renovation, L.L.C., represented by attorney Bradley C. Neal, have consented to the entry of this judgment, finds as follows:

1. The Court has jurisdiction over the parties and the subject matter of this litigation.
2. Venue is proper in Polk County.
3. Plaintiff is the State of Iowa, ex rel. Attorney General Thomas J. Miller, the duly elected Attorney General of Iowa. The Attorney General of Iowa is expressly authorized pursuant to Iowa Code §§ 714.16(7) and 555A.6(2) to file a civil action against any person who has engaged in a practice declared to be unlawful under Iowa Code § 714.16 and/or Iowa Code chapter 555A.
4. Defendant IQ Renovation, L.L.C. ("IQ Renovation") was incorporated in the state of Iowa on January 8, 2009 for the purpose of selling and providing home repair and contractor services to a predominately residential market. At the time relevant to the transactions from

which this suit arose, the place of business for IQ Renovation was initially 3775 EP True Parkway, Suite 112, West Des Moines, Iowa; and then 8527 University Boulevard, Suite 8, Clive Iowa; and finally 100 Grand Avenue, Suite 10, West Des Moines, Iowa.

5. Defendant Megan Leanne Troyer is the president, owner, operator and managing agent of a home repair and contractor business registered with the Iowa Secretary of State as IQ Renovation. At the time relevant to the transactions from which this suit arose, the place of business for Megan Leanne Troyer under any business name was initially 3775 EP True Parkway, Suite 112, West Des Moines, Iowa; and then 8527 University Boulevard, Suite 8, Clive Iowa; and finally 100 Grand Avenue, Suite 10, West Des Moines, Iowa. Defendant Megan Leanne Troyer is named in her individual capacity as well as her past or present corporate capacities.

6. Defendant Megan Leanne Troyer formulated, directed, controlled, was a primary participant in, and had, or should have had, knowledge of the acts and practices of IQ Renovation constituting the violations of Iowa law as alleged herein and, at all times relevant hereto, was an officer, director, owner, and/or managing agent of IQ Renovation.

7. Defendant Timothy Ryan Marlow identifies himself as "project consultant," "IQ Renovation Representative" and "owner" to consumers; and is an owner, operator and managing agent of a home repair and contractor business registered with the Iowa Secretary of State as IQ Renovation. During this same time period, Timothy Ryan Marlow also contracted to provide home repairs or contractor services under the business name of "Energy Savers." At the time relevant to the transactions from which this suit arose, the place of business for Timothy Ryan Marlow under any business name was initially 3775 EP True Parkway, Suite 112, West Des Moines, Iowa; and then 8527 University Boulevard, Suite 8, Clive Iowa; and finally 100 Grand

Avenue, Suite 10, West Des Moines, Iowa. Defendant Timothy Ryan Marlow is named in his individual capacity as well as his past or present corporate capacities.

8. Defendant Timothy Ryan Marlow formulated, directed, controlled, was a primary participant in, and had, or should have had, knowledge of the acts and practices of IQ Renovation constituting the violations of Iowa law as alleged herein and, at all times relevant hereto, was an officer, director, owner, and/or managing agent of IQ Renovation.

9. Unless otherwise specified, the term "Defendants" as referred to herein includes Megan Leanne Troyer, Timothy Ryan Marlow and IQ Renovation, L.L.C.; as well as any corporate name or trade name under which they operated, or are operating, a business; and their representatives, agents, independent contractors, assigns, successors, or other business entities, whose acts, practices or policies were directed, formulated or controlled by either Megan Leanne Troyer, Timothy Ryan Marlow and IQ Renovation, L.L.C.

10. The phrase "home repairs or contractor services," as used herein, includes any labor or materials provided for work on any residential dwelling or other structure; and any labor or materials provided for work on other things commonly found on residential real property including, but not limited to, garages, basements, interiors, roofs, porches, driveways, sidewalks, patios and fences.

11. The phrase "commercial property repair or construction services," as used herein, includes any labor or materials provided for work on any commercial structure; and any labor or materials provided for work on other things commonly found on commercial real property including, but not limited to, storage buildings, basements, interiors, roofs, porches, driveways, sidewalks, and fences.

12. The State alleges that Defendants violated Iowa Code chapter 555A by selling

merchandise at a place other than the Defendants' place of business and then:

- a. violating Iowa code § 555A.(4)(1) by failing to furnish two copies of the notice of cancellation drafted in conformity with Iowa Code § 555A.3;
- b. violating Iowa Code § 555A.4(4) by misrepresenting the consumers' right to cancel by stating that Saturday is considered a "business day" for the purpose of counting the three days during which a consumer may cancel a door-to-door contract, when in fact Saturday is not counted as a "business day" pursuant to Iowa Code § 555A.1(1); and
- c. violating Iowa Code § 555A.4(5) by failing to honor valid cancellations by consumers and refund all payments made under the contracts within ten (10) business days of the cancellation.

13. The State alleges that Defendants violated Iowa Code § 714.16(2)(a) by committing the violations of Iowa Code chapter 555A listed in the previous paragraph, each violation of which is a per se violation of Iowa Code § 714.16(2)(a) pursuant to Iowa Code § 555A.6(2).

14. The State alleges that Defendants further violated Iowa Code § 714.16(2)(a) in that Defendants acted, used or employed deception, fraud, false pretense, false promise, misrepresentation and/or concealment, suppression, or omission of material facts with the intent that consumers rely on the concealment, suppression or omissions, in violation of Iowa Code § 714.16(2)(a), in a manner including, but not limited to:

- a. representing to consumers that Defendants would begin home repairs or contractor services within a promised time period, without a reasonable basis for such representations;
- b. representing to consumers that Defendants would complete home repairs or contractor services within a promised time period, without a reasonable basis for such representations;
- c. representing to consumers that Defendants would complete home repair or contractor services in a specific manner and then failing to provide said services to the agreed specifications;
- d. representing to consumers that Defendants provided a "workmanship warranty" for a period of at least twelve months and then failing to correct deficiencies in workmanship;

e. representing to consumers that Defendants were “adequately insured” against potential incidents on the consumers’ property and then failing to maintain their insurance coverage;

f. representing to consumers that Defendants only employed subcontractors for limited types of specialty work when in fact the Defendants’ business model was to enter into contracts with consumers and then hire subcontractors to perform most of, if not all of, the actual work under the contracts;

g. representing to consumers that any subcontractors that were used by Defendants to complete the consumers’ contracts would be fully paid by Defendants, when in fact the Defendants failed to pay many of the subcontractors and materials providers even when the consumers had already paid the Defendants for the work performed by the subcontractors and the materials used on the projects;

h. representing to consumers that Defendants would deliver releases and/or lien waivers for materials or labor to the consumers within five days of the next periodic payment or within five days of the project’s completion, when in fact the Defendants repeatedly failed to provide either document to consumers even when the consumers had already paid the Defendants for the labor or materials;

i. representing to consumers that IQ Renovation had over twenty years of experience when in fact the company had not been in business for more than two years;

j. representing to consumers that Defendants would place the consumers’ down payments in an escrow fund to ensure their future availability, when in fact the funds were used by the Defendants for business and personal use; and

k. using consumer testimonials in their advertising, sales presentations or other marketing efforts without first disclosing to consumers that the authors of the testimonials were compensated for their testimonials through discounts or by other means.

15. The State alleges that Defendants further violated Iowa Code § 714.16(2)(a) in that Defendants committed “unfair practices” in violation of Iowa Code § 714.16(2)(a), in a manner including, but not limited to:

a. contracting with consumers to provide home repair and contractor services, and then failing to provide labor, materials or reimbursement of the consumers’ down payment;

b. accepting payment from consumers as a down payment for the provision of home repair and contractor services and then failing to provide labor or materials, or repay the down payment to consumers;

- c. contracting with consumers to provide home repair and contractor services, and then failing to perform the home repair and contractor services in a workmanlike manner and/or in a manner that complied with manufacturer standards and/or building codes, thus placing the consumers at risk of physical and/or financial harm;
- d. contracting with consumers to provide home repair and contractor services in a specific manner and failing to perform the home repair and contractor services to said specifications, thus placing the consumers at risk of physical and/or financial injury;
- e. collecting payment from consumers for home repair and contractor services and then failing to timely pay subcontractors and/or materials providers for materials and services provided on the consumers' contract; thus placing the consumers at risk that the unpaid third parties would place mechanics liens against the consumers' properties or otherwise force the consumers to pay twice for the same work or materials; and
- f. refusing to respond to consumer inquiries, or responding to consumer inquiries in a manner that delayed, or otherwise prevented, consumers from limiting their loss.

16. The State alleges that Defendant Marlow further violated Iowa Code § 714.16(2)(a) in that Defendant Marlow violated the terms of Assurance of Voluntary Compliance, and thus committed an unlawful practice pursuant to Iowa Code § 714.16(2)(a) in a manner including, but not limited to:

- a. failing to comply with all provisions of the Iowa Door-To-Door Sales Act, Iowa Code chapter 555A;
- b. requesting and accepting advance payments for materials or other contracting expenses from consumers before the contract was fully completed;
- c. failing to deliver all materials purchased with consumers' payments to the site where the work was to be performed within five calendar days after payment by the consumer;
- d. failing to use materials and payments for any contracting expenses only to the benefit of the consumers that paid for them;
- e. requesting and accepting payments for labor from consumers before the work required under the consumers' contracts was fully completed; and
- f. failing to immediately pay in full every subcontractor, materials supplier, or any other person or entity that has the ability to place a lien on a consumer's property; either as soon as the services or materials are delivered, or as soon as the consumer paid Respondent Marlow, whichever event occurred first.

17. Defendants waive their right to a judicial or administrative hearing on any issue of fact or law set forth in the petition filed by the State herein.

18. It is in the public interest that permanent injunctive relief be issued herein to protect the people of the State of Iowa from any further losses from any similar conduct by the Defendants in Iowa in the future.

19. The undersigned, Megan Leanne Troyer, hereby represents that she has the legal authority to bind Defendant IQ Renovation, L.L.C. to the terms and provisions of this Consent Judgment.

20. The State having alleged that Defendants violated the Iowa Door-to-Door Sales Act, Iowa Code chapter 555A, and the Defendants having persisted in their defense by denying all such allegations, the Court hereby finds that Defendants violated Iowa Code chapter 555A in the manner described in paragraph 12 above.

21. The State having alleged that Defendants violated the Iowa Consumer Fraud Act, Iowa Code § 714.16(2)(a), and the Defendants having persisted in their defense by denying all such allegations, the Court hereby finds that Defendants violated the Iowa Consumer Fraud Act, Iowa Code § 714.16(2)(a), in numerous ways by participating in the unlawful conduct summarized in paragraphs 13 through 16, above.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that, pursuant to Iowa Code § 714.16(7):

22. Defendants Megan Leanne Troyer, Timothy Ryan Marlow and IQ Renovation, L.L.C.; their partners, officers, employees, agents, successors, and all other persons, corporations or other entities while controlled by the Defendants, while acting in concert with the Defendants

or while participating with the Defendants, who have actual or constructive notice of the Court's injunction are hereby permanently enjoined from:

- a. owning, operating, controlling, directing, or otherwise profiting (either directly or indirectly) from any business in the State of Iowa that in any manner offers or provides home repairs or residential contractor services;
- b. advertising, offering or selling any home repairs or residential contractor services to Iowa consumers;
- c. entering into any contracts to provide home repairs or residential contractor services to Iowa consumers; and/or
- d. advising, controlling, directing, managing, or otherwise exercising any authority to any extent regarding a business which, in whole or in part, provides home repairs or residential contractor services; including but not limited to, business practices, business plans, business models, hiring decisions, contracting decisions, or the like.

23. Defendants Megan Leanne Troyer, Timothy Ryan Marlow and IQ Renovation, L.L.C.; their partners, officers, employees, agents, successors, and all other persons, corporations or other entities while controlled by the Defendants, while acting in concert with the Defendants or while participating with the Defendants, who have actual or constructive notice of the Court's injunction are hereby further permanently enjoined from requesting or accepting any payments for commercial property repair or construction services until the services and materials for which Defendants contracted are fully completed and delivered.

24. Pursuant to Iowa Code § 714.16(7), Defendants Megan Leanne Troyer, Timothy Ryan Marlow and IQ Renovation, L.L.C. shall provide reimbursement in the amount of \$160,503.28 to the consumers listed in Exhibit A in the amount listed beside each consumer's name, and judgment is hereby entered against the Defendants, jointly and severally, for that amount.<sup>1</sup> The State agrees to refrain from executing on the judgment so long as Defendants pay

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<sup>1</sup> The State acknowledges that some consumers may independently obtain judgments or refunds against the Defendant(s). It is not the State's intention to obtain duplicative recoveries for consumers for the same transactions

the judgment in the following manner:

- a. All payment(s) shall be delivered in the form of certified checks or money orders to:

Iowa Department of Justice  
Consumer Protection Division  
1305 East Walnut Street  
Des Moines, IA 50319

b. Defendants have requested an installment plan for consumer reimbursement and the State has agreed to accept installment payments to begin on July 1, 2012; and to be due on the first (1st) day of each subsequent month until the judgment is paid in full. The State may claim interest at the rate of 10% per annum on any payment not received by the Consumer Protection Division by the tenth (10th) day of the month in which that payment is due. The final decision to claim interest on late payments is solely that of the Iowa Department of Justice.

c. Should Defendants fail to pay any installment on or before the date that it is due, Defendants shall be in default and the State shall be free to execute on the full remaining balance of the reimbursement judgment, any additional judgment or award, or both in the event of a default.

d. Defendants may pre-pay the balance due at any time.

e. Because the State agreed to the installment plan based on Defendants' representations under oath as to their financial status at the time of the filing of this Consent Judgment, the State may also file an affidavit declaring a default if it discovers that Defendants materially misstated their financial status or ability to pay, or attempted to avoid payment by transferring material assets within 90 days of the signing of this Consent Judgment. In such event, the State may execute on the full outstanding balance of the judgment(s) or, at its discretion, may alter the installment plan to reflect Defendants' actual ability to pay. The final decision to execute or to reasonably alter the payment amount is solely that of the State.

f. Either party may request, and shall be granted, one meeting each calendar year to review Defendants' financial condition for purposes of raising or lowering the monthly payments. However, Defendants shall promptly notify the State of any increase in income or assets of 10% or more from the date that this Judgment is filed or from any subsequent adjustment, and meet with the State for a financial review if the State so requests even if the scheduled review meeting for that calendar year has already taken place. For purposes of this subsection 24(f), the Defendants may calculate any increase in

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and the final payment due under this Consent Judgment will be reduced in the amount of any payment(s) made to consumers arising from the same transactions providing a basis for this action, so long as the Defendants produce credible evidence of payment.

income or assets by using the monthly average of a quarterly (three-month) period in conjunction with the Internal Revenue Service's estimated tax requirements for self-employed individuals.<sup>2</sup> Furthermore, if the State receives information which reasonably leads it to believe that the Defendants' income or assets have increased 10% or more, the State may request that Defendants meet with the State for a financial review, even if the scheduled review meeting for that calendar year has already taken place. The State may reasonably alter the payment amount if it determines that there has been a substantial change (i.e. 10% or more) in circumstances in the income or assets of the Defendants.

25. The following shall apply should the Court find that Defendants Megan Leanne Troyer, Timothy Ryan Marlow or IQ Renovation, L.L.C. violated this Consent Judgment:

a. The offending Defendants shall be permanently restrained and enjoined from owning, operating, controlling, directing, or otherwise profiting from any business in the State of Iowa which provides commercial property repair or construction services, so long as the violation of this Consent Judgment is material<sup>3</sup>;

b. Pursuant to Iowa Code § 714.16(7), the Court may impose a civil penalty of not more than \$5,000 for each day of intentional violation of this Consent Judgment by the offending Defendants in addition to any other remedy allowed by law; and

c. The offending Defendants may also be found guilty of contempt of this Court, pursuant to Iowa Code chapter 665, and as that chapter is subsequently amended.

The Order under this paragraph shall be in addition to other remedies the Court may order in the event of Defendants' non-compliance with this Consent Judgment.

26. At the time that this Consent Judgment is entered by the Court, the injunctive provisions contained in paragraphs 22 and 23 of this Consent Judgment shall supersede the injunctive provisions contained in paragraphs C through H in the *Order Granting Temporary Injunction* filed on September 11, 2011.

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<sup>2</sup> The Internal Revenue Service mandates that the due dates for estimated taxes are April 15<sup>th</sup> for the first quarter of the year, June 15<sup>th</sup> for the second quarter of the year, September 15<sup>th</sup> for the third quarter of the year and January 15<sup>th</sup> of the following year for the fourth quarter of the year.

<sup>3</sup> This injunction will be in addition to the already existing injunction relating to residential construction contained in this Consent Judgment.

27. This Consent Judgment shall not bar the State or any other governmental entity from enforcing other laws or rules against Defendants relating to any of Defendants' practices, including those alleged in the petition.

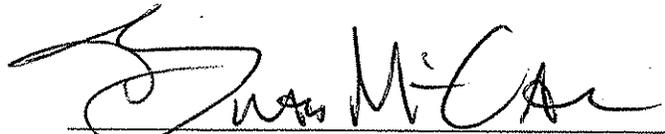
28. This Consent Judgment shall not be construed so as to affect the legal or equitable rights of any individual citizen to initiate court proceedings against Defendants and to obtain any relief authorized by law or regulation.

29. Defendants shall pay any and all court costs incurred in this action.

30. The Court reserves jurisdiction over this action in order to take any further action deemed necessary to enforce this judgment and to award the State judgment for any costs, including attorneys fees, it incurs in the event of noncompliance by Defendants. Such costs may include court costs in addition to those authorized by paragraph 29, above.

31. The mailing of a copy of this signed and filed Consent Judgment to Counsel for Defendants shall constitute notice and acceptance by Defendants of all the terms of this Consent Judgment; Defendants have waived the necessity of having the Consent Judgment served upon them.

IT IS SO ORDERED this 24th day of May, 2012.



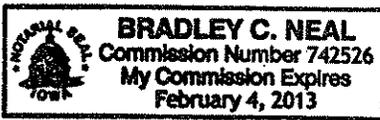
BRAD McCALL, JUDGE  
FIFTH JUDICIAL DISTRICT OF IOWA

Agreed and approved as to form and content:

Date 5.23.12

Megan Troyer Marlow  
Megan Troyer Marlow, f/k/a Megan Leanne Troyer,  
Individually  
Defendant

Subscribed and sworn to before me this 23 day of May, 2012.

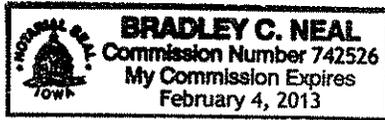


[Signature]  
Notary Public in and for the State of Iowa

Date 5.23.12

IQ Renovation, L.L.C.  
Megan Troyer Marlow  
By: Megan Troyer Marlow, f/k/a Megan Leanne  
Troyer,  
President and Owner of IQ Renovation, L.L.C.  
Defendant

Subscribed and sworn to before me this 23 day of May, 2012.

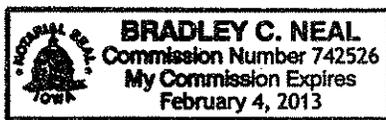


[Signature]  
Notary Public in and for the State of Iowa

Date 5-23-12

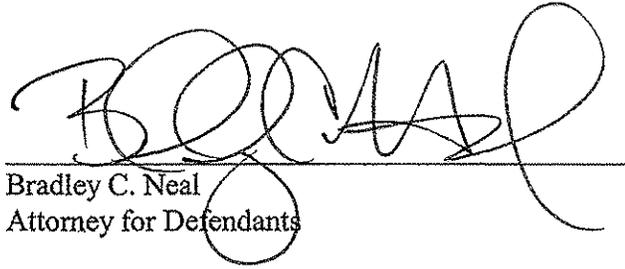
Timothy Ryan Marlow  
Timothy Ryan Marlow, Individually and in any  
Corporate or Capacity for IQ Renovation, L.L.C.  
and Energy Savers  
Defendant

Subscribed and sworn to before me this 23<sup>rd</sup> day of May, 2012.



[Signature]  
Notary Public in and for the State of Iowa

Date 5/23/12

  
Bradley C. Neal  
Attorney for Defendants

Date 5-24-12

  
Benjamin E. Bellus  
Attorney for the State of Iowa

Copies to:

Bradley C. Neal  
KREAMER LAW FIRM, P.C.  
7155 Lake Drive, Suite 200  
West Des Moines, Iowa 50266

Benjamin E. Bellus  
IOWA DEPARTMENT OF JUSTICE  
Consumer Protection Division  
1305 East Walnut, Second Floor  
Des Moines, IA 50319

## EXHIBIT A

1. Larry Arnold:	\$2,254.50
2. Garry Auxier:	8,656.00
3. Lois Blankenship:	400.00
4. Sandy Coltrain:	0.00
5. Ted and Jolene Davis:	7,660.12
6. Aaron and Lynette Deal:	925.00
7. Chelsie and Kris Dirkson:	876.00
8. Art and Nancy Dunbar:	0.00
9. Sandra Elliot:	4,050.00
10. Rick Free and Sandra Carter:	7,670.00
11. Travis and Erin Huiatt:	3,015.43
12. Stan and Smeeta Jacob:	4,258.89
13. Shaun Jennex:	0.00
14. Lynn Johnson:	8,365.00
15. Vic Keese:	450.00
16. John and Norene Kelly:	1,830.00
17. Tamera Kusian:	13,229.00
18. Don Leslie:	6,610.00
19. Donald Lindo:	0.00
20. Marlene Lowman:	0.00
21. Ila Maggard:	6,914.00
22. Ed and Pat Maras:	7,700.00
23. Jeff Margrett:	0.00
24. Raymond McClellan:	0.00
25. Steve and Mary McCullough:	8,843.00
26. Eunice Merideth:	2,642.00
27. Harold Mills:	166.95
28. Rita Moreno:	1,460.00
29. John and Carol Nelson:	4,652.82
30. Greg Pelley:	784.40
31. Kevin and Maurie Pirie:	500.00
32. Mary Reif:	1,500.00
33. Gerald and Janice Roe:	0.00
34. Max Runciman:	450.00
35. Gary and Janet Tiefenthaler:	5,186.00
36. Thomas and Marilyn Vandekamp:	200.00
37. William and Rena VanZante:	11,825.00
38. Linda Wade:	29,323.50
39. Ed and Pam Washington:	5,000.00
40. Tim and Judy West:	0.00
41. Alan and Rhea Zembower:	<u>\$3,105.67</u>
Total restitution per settlement:	\$160,503.28