

DISTRICT COURT, COUNTY OF EL PASO,
STATE OF COLORADO
270 South Tejon
Colorado Springs, Colorado 80903

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STATE OF COLORADO, ex rel. CYNTHIA H.
COFFMAN, ATTORNEY GENERAL

Plaintiff,
v.

WESTERN BARN COMPANY, LLC; QUALITY
BARN BUILDERS, LLC; DARYL BRUCE
JURGENS, an individual; RYAN JURGENS, an
individual; BIRGIT JURGENS, an individual;
CYNTHIA JURGENS, an individual.

Defendants.

▲ COURT USE ONLY

▲

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Case No.

Div.:

COMPLAINT

Plaintiff, the State of Colorado, upon relation of Cynthia H. Coffman, Attorney General for the State of Colorado, by and through undersigned counsel, states and alleges as follows:

INTRODUCTION

1. This is an action brought by the State of Colorado pursuant to the Colorado Consumer Protection Act, Colo. Rev. Stat. §§ 6-1-101 *et seq.*, (“CCPA”), to enjoin and restrain Defendants from engaging in certain unlawful deceptive trade practices, for restitution to injured consumers, for statutorily mandated civil penalties, for disgorgement, and other relief as provided in the CCPA.

PARTIES

2. Cynthia H. Coffman is the duly elected Attorney General of the State of Colorado and is authorized under Colo. Rev. Stat. § 6-1-103 to enforce the provisions of the CCPA.

3. Defendant Daryl Bruce Jurgens is an individual who owns and operates Western Barn Company, LLC. Daryl Bruce Jurgens resides at 16078 West Spencer Road, Peyton, CO 80831 and at 10955 Egerton Rd. Colorado Springs, CO 80908.

4. Defendant Western Barn Company, LLC is a Colorado limited liability corporation, with a principal office address listed as 16078 West Spencer Road, Peyton, CO 80831. The limited liability corporation was originally formed as Reliable Property Maintenance, LLC, on September 16, 2013. On March 20, 2014, Reliable Property Maintenance, LLC filed Articles of Amendment, changing the entity name to Western Barn Company, LLC. Western Barn Company, LLC was dissolved on September 3, 2016.

5. Defendant Ryan Jurgens is an individual who acted as a manager for Western Barn Company and currently owns and operates Quality Barn Builders, LLC. Ryan Jurgens resides at 1021 8th Street, Calhan CO 80808.

6. Defendant Quality Barn Builders, LLC is a Colorado limited liability corporation, with a principal office address listed as 11706 Elbert Rd., Peyton, CO 80831. Quality Barn Builders, LLC was formed on May 11, 2016.

7. Defendant Birgit Jurgens is an individual who formed Western Barn Company, LLC, acted as its registered agent, and performed financial duties for the company. Birgit Jurgens resides at 10955 Egerton Rd. Colorado Springs, CO 80908.

8. Defendant Cynthia Jurgens is an individual who formed Quality Barn Builders, LLC and performed financial duties for the company. Cynthia Jurgens resides at 1021 8th Street, Calhan CO 80808.

JURISDICTION AND VENUE

9. Pursuant to Colo. Rev. Stat. §§ 6-1-103 and 6-1-110(1), this Court has jurisdiction to enter appropriate orders prior to and following an ultimate determination of liability.

10. Defendants engaged in deceptive trade practices in El Paso County. The Defendants, both the corporate and individual defendants, reside in El Paso County. Accordingly, venue is proper in El Paso County, Colorado, pursuant to Colo. Rev. Stat. § 6-1-103 and Colo. R. Civ. P. 98.

RELEVANT TIMES

11. The conduct that gives rise to the claims for relief contained in this Complaint began in 2014, and has been ongoing through the present.

12. This action is timely brought pursuant to Colo. Rev. Stat. § 6-1-115 in that it is brought within three years of the date on which false, misleading, and deceptive acts or practices occurred or were discovered and said practices are ongoing.

PUBLIC INTEREST

13. Through the unlawful practices of their business or occupation, Defendants have inflicted serious financial injury on at least twenty-three (23) Colorado consumers. These legal proceedings are in the public interest and are necessary to safeguard citizens from Defendants' unlawful business activities. Defendants' actions have also injured businesses which operate legitimately and do not engage in deceptive and unfair business practices.

GENERAL ALLEGATIONS

I. Defendants advertise pole barn construction on Craigslist, take large deposits from consumers, and then deliberately fail to provide the pole barns for which the consumer paid.

14. In a span of 18 months, Defendants Daryl Bruce Jurgens (“Bruce Jurgens”) and Ryan Jurgens (collectively, “the Jurgenses”) defrauded at least twenty-three (23) Colorado consumers of approximately \$360,000 by advertising pole barn construction, taking large deposits, and then deliberately failing to build the pole barns. **Exhibit 1**, *Affidavit of Investigator Kenneth King*, ¶10.

15. Pole barns are a type of storage building typically used on farms. Pole barn construction involves setting wooden poles vertically in the ground for wall support and attaching triangular wooden trusses for roof support. Corrugated steel or aluminum panels are then attached to the frame for the walls and roof. Pole barn style construction is also used to build garages and loafing sheds, which are three-sided shelters used for horses and cattle.

16. The Jurgenses operated under the name Western Barn Company, LLC from March 2014 until May of 2016, when they began operating as Quality Barn Builders, LLC. **Exhibit 1**, *Affidavit of Investigator Kenneth King*, ¶42.

17. The Jurgenses found their consumer victims primarily by advertising on Craigslist:

BETTER BARNS AT BETTER PRICES! LOCALLY OWNED AND OPERATED, NO MIDDLE MAN! ALL 2x6 CONSTRUCTION. WE OFFER BARN PACKAGES, ANY SIZE (BUILD YOURSELF OR LEAVE IT TO US), PREMIUM STEEL ROOFING FOR BARNS OR HOMES, LOAFING SHEDS, POLE BARNS, GARAGES, ETC. ALSO SPECIALIZED IN REMODELING OF OLD BARNS. LICENSED AND INSURED BUILDING SPECIALISTS! PLEASE CALL FOR MORE INFO. 719-468-9593 OR 355-4762.

Exhibit 1, *Affidavit of Investigator Kenneth King*, ¶12; **Exhibit 2**, *Affidavit of Roger Mendenhall*; **See Exhibits 3-13**, *Consumer affidavits*.

18. In addition to Craigslist, the Jurgenses placed small signs on various rural county roads advertising pole barn construction services. **Exhibit 1**, *Affidavit of Investigator Kenneth King*, ¶12.

19. Consumers who called Western Barn received quick responses from owner Bruce Jurgens, or his son, Ryan Jurgens, who typically went to the consumer’s home and provided an estimate. **See Exhibits 2-13**, *Consumer affidavits*.

20. After providing the estimate, the Jurgenses pressured consumers to sign contracts and pay the initial deposit on the spot, suggesting that the contract needed to be signed quickly, so that they could get the consumer on their “schedule.” The Jurgenses claimed to be very busy constructing pole barns, and often told the consumers that they were building other barns in the area. Defendants were not, in fact, actually building all of these other barns; they were simply lining up contracts and creating the illusion of initial construction. *Id.*

21. Defendants’ contracts contained a three-part payment schedule. The contracts required consumers to pay an initial deposit totaling 30 to 40 percent of the contract. The contracts stated that the initial deposit was to be used for the purchase of lumber and trusses. Upon receipt of the lumber and trusses, the consumer was required to pay the second payment, supposedly for the purchase of steel siding, roofing and all remaining materials. A final payment was due upon completion of the project. *Id.*

22. The Jurgenses employed a series of deceptive tactics in order to consistently obtain first and second payments from consumers, absent any substantial work toward building a barn. The two payments procured by the Jurgenses often constituted 60 to 80 percent of the total contract. **Exhibit 1**, *Affidavit of Investigator Kenneth King*, ¶¶18-22.

23. Most of the consumer victims received a small, partial delivery of lumber a week or two after payment of the initial deposit. In some instances, consumers learned that Western Barn had not actually paid for the lumber when the lumber distributor placed a mechanic’s lien on the consumer’s home. **Exhibit 1**, *Affidavit of Investigator Kenneth King*, ¶¶18-26; **Exhibit 12**, *Affidavit of Cliff Trump*; **Exhibit 13**, *Affidavit of Walt Merriam*.

24. Trusses, the cost of which were covered by the initial deposit, are wooden frameworks used for roof support and must be designed to meet building code requirements for wind and snow loads. In almost every instance, the Jurgenses did not deliver the trusses, claiming that they were “on order.” Consumers who later investigated by calling the supposed supplier, Pueblo Truss, learned that Western Barn had not actually ordered the trusses **Exhibit 1**, *Affidavit of Investigator Kenneth King*, ¶20.

25. After making these partial deliveries of lumber, Defendants made additional false representations to consumers to induce them to make the second payment. For example, Defendants claimed that a second payment was

necessary to pay for the steel siding and roofing. The second payments were often larger than the initial deposit. **Exhibit 1**, *Affidavit of Investigator Kenneth King*, ¶¶18-26; **See Exhibits 2-13**, *Consumer affidavits*.

26. Consumer Dr. Britt Stubblefield, a veterinarian, contracted with Western Barn in December of 2015 to build a large 40' x 84' x 16' pole barn for \$69,495 on his property in Lake George, Colorado. Construction was scheduled to begin in mid-April of 2016. Dr. Stubblefield paid an initial deposit of \$23,400 from his veterinary practice checking account. **Exhibit 3**, *Affidavit of Britt Stubblefield, DVM*.

27. In March of 2016, Ryan Jurgens called Dr. Stubblefield and said that he could begin construction three weeks early, but that he needed the second payment for the steel, doors and remaining materials. Ryan Jurgens claimed he needed to purchase the steel right away because his supplier, Flatiron Steel, was three weeks out on their delivery schedule. Due to that assertion, Dr. Stubblefield gave Ryan Jurgens a check for \$36,095. *Id.*

28. On March 24, 2016, a truck delivered approximately \$4,000 worth of lumber to Dr. Stubblefield's property. Dr. Stubblefield called and asked Ryan Jurgens about the remaining materials, such as the steel siding. Ryan Jurgens claimed that the other materials were on the way. No additional materials were ever delivered. *Id.*

29. In June of 2016, Ryan Jurgens, now operating as Quality Barn Builders, drove a trailer to consumer Ginny Stoltz's home in Guffey, Colorado, with a partial delivery of four (4) trusses for her pole barn garage. He told her that a second truck was just behind him. Based on that representation, Ms. Stoltz wrote a \$4,480 check for the second payment toward the cost of the steel siding. When Ms. Stoltz inspected the trusses the next morning, she saw that the trusses were grey and weathered, appeared to have been used, and were not the correct length. The "second" truck never arrived and no other materials were ever delivered. **Exhibit 4**, *Affidavit of Ginny Stolz*.

30. On July 20, 2016, Ryan Jurgens texted consumers Rosa and Don Tilton of Guffey, Colorado that he had two crews ready to begin work on their planned pole barn and greenhouse the following Monday. Ryan Jurgens requested that the Tiltons wire transfer the second payment to his bank account immediately to pay for the steel siding. The Tiltons wired \$7,000 to Ryan Jurgens' bank account the following day. The "two crews" never arrived and the remaining materials were never delivered. **Exhibit 5**, *Affidavit of Don Tilton*.

II. Defendants used numerous excuses to delay consumers reporting them to law enforcement.

31. After obtaining the second payment from consumers, the Jurgenses strung consumers along with excuses for several months, and then eventually stopped returning their calls or text messages. **See Exhibits 2-13, Consumer affidavits.**

32. Consumers were told by the Jurgenses that-

- Trusses were delayed (August 2015)
- Trusses were inferior quality and had been rejected (September 2015)
- Crew had been given the holidays off (December 2015)
- Difficulty obtaining trusses (January 2016)
- Forklift blew a hydraulic line (Spring 2016)
- Western Barns lost its crew (April 2016)
- Ryan Jurgens had overextended himself (May 2016)
- Concrete shortage (May 2016)
- Ryan Jurgens fell off a building and was “banged up” (May 2016)
- Ryan Jurgens was in a car accident (July 2016);
- “Unfortunate financial issues” (July 2016)
- Ryan Jurgens was in a car accident (August 2016)
- Ryan Jurgens crushed his foot while loading a skid loader (August 2016)
- Hail damage to personal vehicles (August 2016)
- Ryan Jurgens’ son’s baseball team made the national championships (August 2016)

- Ryan Jurgens had licensure issues and was retaking licensure exam (September 2016)
- Family emergency (September 2016)

See Exhibits 2-13, Consumer affidavits.

33. The Jurgenses' scheme of incomplete performance followed by a myriad of excuses made it difficult for consumers to realize quickly that they were the victims of fraud, and to pursue criminal theft charges or file private actions. The partial deliveries of lumber, partial excavations, a few poles in the ground, coupled with the excuses, gave the appearance of an incomplete project rather than an intentional theft.

III. Defendants' intent to deceive was evident in other aspects of their business

34. The Jurgenses' intent to deceive and intentionally deprive consumers of their money was present from the start. Western Barn's advertisements and business cards stated "Licensed and Insured," although neither Bruce nor Ryan Jurgens was a licensed contractor. Consumers who later attempted to verify the status of their building permits learned that no permit applications had been filed, and that the Jurgenses were not licensed contractors. **Exhibit 1, Affidavit of Investigator Kenneth King, ¶¶13,31; Exhibit 3, Affidavit of Britt Stubblefield, Attachment 1; Exhibit 2, Affidavit of Roger Mendenhall; Exhibit 7, Affidavit of Gina Hall; Exhibit 9, Affidavit of Kevin Janes; Exhibit 13, Affidavit of Walt Merriam.**

35. The Jurgenses' intent was evident in their approach to resolving complaints. One of the Jurgenses' first consumer victims was Kevin Allison who gave Ryan Jurgens an \$8,200 check on March 20, 2015, as the initial deposit towards a pole barn to be built on his property in Peyton, Colorado. After taking his deposit, the Jurgenses were extremely difficult to reach and did not return his calls or text messages. After three months with no materials and no work performed, Kevin Allison informed Bruce Jurgens that he intended to file a report with the police. Bruce Jurgens responded that he "had the best attorney in town and go ahead and do it" and that he would "drag this out forever" in the court system. **Exhibit 4, Affidavit of Kevin Allison.**

36. In April of 2015, consumer Gina Hall hired Western Barn to construct a pole barn on her property in Colorado Springs, Colorado. Hall and her husband had already purchased all of the materials from a manufacturer

and contracted with Western Barn to simply erect the barn, at a cost of \$5,512.50. After months of excuses as to delays, Hall requested a full refund from Defendants. In response, Bruce Jurgens told her that she wouldn't get a full refund, and that if she made any negative comments about Western Barn, he would use his influence with the building department to make sure her barn was never completed. **Exhibit 7, Affidavit of Gina Hall.**

37. In September of 2015, Ryan Jurgens demanded that consumer Andy Van Ruler make a \$14,000 second payment towards the construction of a pole barn in Peyton, Colorado. Van Ruler refused because he had already paid a \$17,000 initial deposit and had only received a partial delivery of lumber, almost two months after paying the deposit. Ryan Jurgens became angry and left Van Ruler's property. The following day, Van Ruler agreed to meet with Bruce Jurgens and Ryan Jurgens. When Bruce Jurgens got out of his car, his first statement to Van Ruler was: "I just met with my attorney and he is good!" When Van Ruler said that he would hire his own attorney to get his deposit back, Bruce Jurgens responded by challenging Van Ruler to a fight. **Exhibit 8, Affidavit of Andy VanRuler.**

38. The Jurgens continued to seek out new consumer victims, even as consumers began filing private civil actions against them.

39. On September 21, 2015, consumer Kevin Allison filed a civil action against Western Barn in El Paso County Court. Bruce Jurgens' wife, Birgit Jurgens, registered agent for Western Barn, was served a copy of the Complaint. During court-ordered mediation, Bruce Jurgens agreed to refund Allison's \$8,200 deposit. The stipulation was converted into a court order. Despite this order, Bruce Jurgens did not refund any money to Allison. **Exhibit 6, Affidavit of Kevin Allison.**

40. On September 30, 2015, consumer Andy Van Ruler filed a civil action against Western Barn in El Paso County District Court. Birgit Jurgens, registered agent for Western Barn, was served a copy of the Complaint. The case is still pending before the Court. **Exhibit 14, Colorado Courts Database, El Paso County District Court, Case 2015CV32850.**

41. On December 11, 2015, consumer Charlene Hoffeld filed a civil action against Western Barn and Ryan Jurgens in Elbert County District Court. The Complaint was personally served on Birgit Jurgens, registered agent for Western Barn, and Ryan Jurgens. Neither Western Barn nor Ryan Jurgens answered the Complaint. The Court entered default judgments against Ryan

Jurgens on January 13, 2016 and against Western Barn on April 23, 2016. **Exhibit 15**, *Court documents from 2015CV30100*.

42. While these consumer complaints, disputes, and civil actions were mounting in late 2015, the Jurgenses never attempted to actually complete these projects or provide refunds. To the contrary, they continued to seek out consumer victims, continued employing the same tactics, and took in an additional \$100,000 in consumer contracts. **Exhibit 1**, *Affidavit of Investigator Kenneth King*, ¶10.

43. In May of 2016, Ryan Jurgens began operating as Quality Barn Builders, LLC (“Quality Barn”). Ryan Jurgens’ wife, Cynthia Jurgens, was listed on the Articles of Incorporation as the registered agent and incorporator for Quality Barn. Cynthia Jurgens opened accounts at Chase Bank in the name of Quality Barn and signed as a “member” of the LLC. **Exhibit 1**, *Affidavit of Investigator Kenneth King*, ¶¶42-50.

44. Consumers who had originally contacted Western Barn for an estimate were told by Ryan Jurgens that Western Barn was so busy building barns that his company, Quality Barn, was taking the “overflow” projects. **Exhibit 4**, *Affidavit of Ginny Stolz*.

45. Quality Barn used the same contract form as Western Barn, and continued to operate in the same fashion as Western Barn. **Exhibit 1**, *Affidavit of Investigator Kenneth King*, ¶46.

46. On August 2, 2016, Bruce Jurgens and Birgit Jurgens filed for Chapter 7 personal bankruptcy, listing the majority of Western Barn’s victims as creditors and Ryan Jurgens as a co-debtor. A review of their bankruptcy filing showed that the Jurgens did not have a mortgage, and had relatively little personal debt aside from what was owed to their Western Barn victims. **Exhibit 1**, *Affidavit of Investigator Kenneth King*, ¶62.

47. A review of Western Barn’s, Quality Barn’s, and the Jurgenses’ bank accounts showed that the Jurgenses did not maintain consumers’ funds in trust for their projects. Instead, the Jurgenses (Bruce, Birgit, Ryan and Cynthia) spent tens of thousands of dollars on personal expenses such as restaurants, liquor stores, groceries, travel and towards larger dollar items such as jewelry, vehicles and boats. **Exhibit 1**, *Affidavit of Investigator Kenneth King*, ¶¶51-75.

48. Today, the Jurgenses continue to employ the same tactics under the name Quality Barn as they did with Western Barn. Consumers pay large initial deposits, receive partial deliveries of lumber, are tricked into making a second payment and then hear months of excuses. Consumer banking records indicate that checks made payable to Quality Barn are directly spent by the Jurgenses. Consumers who have purchased pole barns from Quality Barn have not received their pole barns or a refund. *Id.* at ¶46.

FIRST CLAIM FOR RELIEF

(Employs “bait and switch” advertising, which is advertising accompanied by an effort to sell goods, services, or property other than those advertised or on terms other than those advertised and which is also accompanied by the following practice: failure to make deliveries of the goods, services or property, within a reasonable time or to make a refund therefor, in violation of
C.R.S. § 6-1-105(1)(n)(VII))

49. Plaintiff incorporates herein by reference all allegations set forth above.

50. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants advertised goods and services, specifically, pole barn construction, that would be completed within a reasonable time, and then failed to deliver those goods and services within a reasonable time or failed to make a refund therefor.

51. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

SECOND CLAIM FOR RELIEF

(Advertises services with intent to not sell them as advertised,
C.R.S. § 6-1-105(1)(i))

52. Plaintiff incorporates herein by reference all of the allegations set forth above.

53. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Colorado Consumer Protection Act, C.R.S. § 6-1-105(1)(i) by advertising that they build pole barns, garages, and loafing sheds, with no intent to actually provide or construct them.

54. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from Colorado consumers.

THIRD CLAIM FOR RELIEF

(Knowingly makes a false representation as to the source, sponsorship, approval, or certification of goods, services, or property C.R.S. § 6-1-105(b))

55. Plaintiff incorporates herein by reference all allegations set forth above.

56. Defendants represented that they were licensed contractors, when in fact, they were not.

57. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

FOURTH CLAIM FOR RELIEF

(Refuses or fails to obtain all governmental licenses or permits required to perform the services or to sell the goods, food, services, or property as agreed to or contracted for with a consumer) C.R.S. § 6-1-105(z)

58. Plaintiff incorporates herein by reference all allegations set forth above.

59. Defendants failed to obtain requisite building permits where required by local ordinance.

60. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

FIFTH CLAIM FOR RELIEF

(Knowingly makes a false representation as to the characteristics, ingredients, uses, benefits, alterations, or quantities of goods, food, services, or property or a false representation as to the sponsorship, approval, status, affiliation, or connection of a person therewith) C.R.S. § 6-1-105(e)

62. Plaintiff incorporates herein by reference all allegations set forth above.

63. Defendants claim they will build a complete barn for the agreed upon price, and that the barn will meet industry expectations, when Defendants know they do not follow through and build complete barns, nor do they follow acceptable building requirements/licensing.

64. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for judgment against the Defendants and the following relief:

A. An order declaring Defendants' above-described conduct to be in violation of the Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-105(1)(n)(VII), (i),(b),(u), (z) and (e).

B. An order permanently enjoining Defendants, their officers, directors, successors, assigns, agents, employees, and anyone in active concert or participation with any Defendant with notice of such injunctive orders, from engaging in any deceptive trade practices as defined in and proscribed by the CCPA and as set forth in this Complaint.

C. Appropriate orders necessary to prevent Defendants' continued or future deceptive trade practices.

D. For a judgment in an amount to be determined at trial for restitution, disgorgement, or other equitable relief pursuant to Colo. Rev. Stat. § 6-1-110(1).

E. An order requiring Defendants to forfeit and pay to the General Fund of the State of Colorado, civil penalties in an amount not to exceed \$2,000 per violation pursuant to Colo. Rev. Stat. § 6-1-112(1)(a), or \$10,000 per violation pursuant to Colo. Rev. Stat. § 6-1-112(1)(c).

F. An order requiring Defendants to pay the costs and expenses of this action incurred by the Attorney General, including, but not limited to, Plaintiff's attorney fees, pursuant to Colo. Rev. Stat. § 6-1-113(4)).

G. Any such further orders as the Court may deem just and proper to effectuate the purposes of the CCPA.

Dated this 24TH day of January, 2017.

CYNTHIA H. COFFMAN
Attorney General

s/ Jeffrey M. Leake

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