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Additionally, the Commonwealth seeks appropriate civil penalties pursuant to §201-8(b) of the Consumer Protection Law for all willful violations of the Consumer Protection Law. The Commonwealth seeks to recover its investigative costs for enforcement of the Consumer Protection Law. In support thereof, the Commonwealth respectfully represents the following:

#### IDENTIFICATION OF PARTIES

1. The Plaintiff is the Commonwealth of Pennsylvania by Attorney General Thomas W. Corbett, Jr.

2. Defendant Gerald Swisher is an adult individual who, to the best of Plaintiff's information and belief, resides in Columbia County at 22 Lunger Drive, Bloomsburg, Pennsylvania, and who operates a home construction/repair business from the same address known as "J. S. Construction."

3. The Commonwealth has reason to believe that Defendant has used practices declared unlawful by the Consumer Protection Law, (a copy of which Act is attached hereto as Exhibit "A").

4. The Commonwealth believes the public interest is served by seeking before this Honorable Court a Permanent Injunction to restrain the operations, methods, acts and practices of Defendant as hereinafter set forth, as well as seeking restitution for consumers and civil penalties for violations of the law.

5. The Commonwealth believes that the imposition of enhanced civil penalties of three thousand dollars (\$3,000) for each instance of a willful past or present violation of the Consumer

Protection Law involving consumers aged sixty (60) or older as victims and one thousand dollars (\$1,000) in other instances are appropriate under §201-8(b) of the Consumer Protection Law.

6. In the operation of his business, Defendant has accepted substantial payments for the construction and/or repair of consumers' homes.

7. To date, the Commonwealth has received and investigated four (4) consumer complaints involving instances where Defendants were paid for construction work which was performed in a shoddy manner, as set forth in paragraphs (8) through (19) below.

8. On January 14, 2002, Warren Dilliplane of Kulpmont, Pennsylvania, entered into a contract with Defendant for the installation of a modular home for a price of one hundred twenty-four thousand, seven hundred thirteen dollars and fifty-six cents (\$124,713.56), which amount was paid in full.

9. The "completion" of the home was delayed for several months, and, as of July of 2003, numerous items were left incomplete or done in a shoddy manner, including installing the home unevenly, failing to install electrical outlets, failing to properly caulk and leaving the job with numerous wall cracks, buckled siding, loose moldings, and improperly installed basement doors.

10. Mr. Dilliplane has received estimates totaling four thousand, six hundred dollars (\$4,600) to correct those problems which can be fixed.

11. In May of 2004, William & Connie Knauer of Danville, Pennsylvania, contracted with Defendant to build a garage and replace a window on their home.

12. Defendant was paid a total of five thousand dollars (\$5,000) in down payments on two contracts totaling seventeen thousand, thirteen dollars (\$17,013), followed by an additional

installment payment of eight thousand, two hundred dollars (\$8,200).

13. Defendant did erect the frame of the garage and performed foundation work but never completed the building and never began the second contract, involving window installation.

14. In August of 2004, Beth Fisher of Conyngham, Pennsylvania, entered into a contract with Defendant to order a new modular home, providing Defendant with a payment of nine thousand, two hundred sixty-four dollars and ninety cents (\$9,264.90).

15. Defendant never ordered the home from the manufacturer, and Ms. Fisher subsequently obtained a civil judgment in that amount, which Defendant is currently making payments toward.

16. On January 28, 2004, Paul Kalinoski of Coal Township, Pennsylvania, contracted with Defendant to provide a manufactured home, along with related foundation and installation work.

17. Mr. Kalinoski paid Defendant a total of one hundred thirteen thousand, nine hundred fifty-five dollars (\$113,955) on a one hundred twenty-five thousand, seven hundred thirty-seven dollar (\$125,737) contract.

18. Defendant delayed the project for many weeks, forcing a delay in the occupancy of the home until June 15.

19. Defendant never finished much of the contract, including the driveway, sidewalks, curbing, gutters and landscaping, which will require an additional fourteen thousand, two hundred eighteen dollars (\$14,218) to complete, above and beyond the amounts which would have been owed to Defendant had he completed the job for the agreed upon price.

20. The Commonwealth asserts that all of Defendant's actions as set forth above constitute

violations of §201-3 of the Consumer Protection Law, as defined by the following subsections of §201-2(4):

- (v) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation or connection that he does not have.
- (vii) Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another;
- (xvi) Making repairs, improvements or replacements on tangible, real or personal property, of a nature or quality inferior to or below the standard of that agreed to in writing.

21. All of the actions set forth above have been performed in a willful manner, thereby subjecting Defendants to the imposition of civil penalties under §201-8 of the Consumer Protection Law.

22. The Commonwealth alleges that all of the practices described above were performed willfully and, therefore, the imposition of civil penalties of one thousand dollars (\$1,000) for each violation of the Consumer Protection Law, including enhanced civil penalties of three thousand dollars (\$3,000) for each willful violation involving consumer victims age sixty (60) or older, in addition to the other relief sought, is appropriate.

23. Based on information provided to the Commonwealth, the Commonwealth believes that two consumers, Warren Dilliplane and Paul Kalinoski, were age sixty (60) or older at the time of their transactions with Defendant.

PRAYER FOR RELIEF

WHEREFORE, the Commonwealth prays this court to grant relief as follows:

A. Directing Defendant to make consumer restitution of up to thirty-two thousand, eighteen dollars (\$32,018.00) through the Bureau of Consumer Protection to be distributed to those consumers referenced above who are also listed in Exhibit “B” hereto;

B. Directing Defendant to make appropriate restitution to other consumers not specifically listed herein above who may subsequently file complaints with the Bureau of Consumer Protection, provided that said losses are established at trial to the satisfaction of the court;

C. Directing Defendant to forfeit and pay to the Commonwealth separate civil penalties of one thousand dollars (\$1,000) for each instance of willful violation of the Consumer Protection Law and three thousand dollars (\$3,000) for each instance of willful past or present violation of the Consumer Protection Law involving consumers aged sixty (60) or older as victims. Based on the complaints referenced herein, with two consumers identified as aged sixty (60) or older, the Commonwealth seeks civil penalties totaling up to eight thousand dollars (\$8,000), in addition to further penalties based on any additional complaints as referenced in paragraph (C) above;

D. Enjoining Defendant from any further violations of the Consumer Protection Law and, further, directing the forfeiture of Defendant's right to do business as a home repair contractor, or in any similar capacity, in the Commonwealth until such time as he can demonstrate to this court that he has paid the restitution and penalties requested in this Prayer for Relief;

E. If necessary, appointing a Receiver under Pa. R.C.P. 1533 to determine and collect Defendants' assets and liquidate same to satisfy this Order;

F. Granting the Commonwealth the costs of investigation and costs of filing this action;  
and

G. Granting such further relief as this court may deem appropriate.

Respectfully Submitted:  
COMMONWEALTH OF PENNSYLVANIA

BY: THOMAS W. CORBETT, JR.  
THOMAS W. CORBETT, JR.  
ATTORNEY GENERAL

BY: FRANK T. DONAGHUE  
FRANK T. DONAGHUE  
CHIEF DEPUTY ATTORNEY GENERAL

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EXHIBIT "B"

1.	Warren Dilliplane	\$ 4,600.00
2.	William & Connie Knauer	\$13,200.00
3.	Paul Kalinoski	\$14,218.00
	TOTAL	\$32,018.00