

STATE OF NORTH CAROLINA
COUNTY OF WAKE

FILED IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 09 CVS 023513

STATE OF NORTH CAROLINA *ex rel.* 2014 FEB 20 P 4:09
ROY COOPER, Attorney General,)
WAKE COUNTY, C.S.C.)

Plaintiff;)

BY _____)

v.)

CONSENT JUDGMENT AS TO
DEFENDANT GARY LEE GOOD

PHOENIX HOUSING GROUP, INC., D/B/A)
HOMESAMERICA, GARY LEE GOOD, DENNIS)
PARRIS, ROGER DEAN BAILEY, JR., YO XEY)
HER A/K/A JOE HERR, DENNIS SETZER,)
W.R. STARKEY MORTGAGE, L.L.P.,)
MARINA MCCUEN, IKE VINSON, K AND B)
HOME BUILDERS, INC., GEORGE WILLIAM)
VARSAMIS, TRAVIS DWAYNE KANUPP,)
AND KATHY SMITH,)

Defendants.)

This cause coming on to be heard and being heard before the undersigned Superior Court Judge in Wake County for entry of a Consent Judgment at the joint request of plaintiff State of North Carolina, by and through Attorney General Roy Cooper, and defendant Gary Lee Good, the Court, with the consent of plaintiff and defendant Good makes the following:

FINDINGS OF FACT

1. Plaintiff is the State of North Carolina acting through its Attorney General Roy Cooper pursuant to authority granted by Chapters 75 and 114 of the General Statutes.

2. Defendant Good is a resident of North Carolina and at times relevant to this matter was the president of defendant Phoenix Housing Group, Inc. (PHG). As president, defendant Good supervised some of the PHG sales centers in North Carolina and Virginia and oversaw the operations of PHG.

3. The State alleges the following:

(a) Defendant PHG and Phoenix Homes of Siler City/Burlington, L.L.C. (hereinafter referred to and included in the term “PHG”), a related corporate entity with similar ownership, management, and control as defendant PHG, operated, at times relevant to this matter, seven centers in North Carolina conducting business under the names of PHG, Homes America, Southern Showcase Housing, and Phoenix Homes of Siler City/Burlington. PHG through its sales centers located in Asheboro, Asheville, Burlington, Granite Falls, Greensboro, Hendersonville, and Winston-Salem sold manufactured and modular homes, either alone or in connection with parcels of real property, and assisted customers in securing financing for their purchases from third party lenders;

(b) Defendant Good, along with defendant Dennis Parris, managed and controlled the business operations of defendant PHG and its subsidiaries and had knowledge of, directed, and participated in the deceptive acts and practices that plaintiff alleges;

(c) Defendant Good assisted in preparing and reviewing PHG’s deceptive advertisements and monitored their placement in newspapers and on radio stations in the areas where the PHG sales outlets were located. These advertisements, targeting consumers with poor credit, solicited consumers to visit sales centers, including one in Granite Falls, North Carolina, by misrepresenting down payment amounts with advertisements like “\$500 Down, Move in Today” and a rent-to-own program that did not exist;

(d) Defendant Good helped prepare the sales materials used to (i) focus the consumers’ attention on the monthly payment rather than the total cost of the home; (ii) misrepresent that the monthly payments would be within the range consumers indicated they

could pay; and (iii) conceal until the closing the true cost of the home and the fact that the monthly payments were going to be more than the consumers indicated they could pay;

(e) Defendant Good supervised defendant Parris and others in sales centers where, in order to obtain financing for consumers who would not otherwise qualify for a loan, the sales center (i) submitted to lenders false financial information, including information on income, assets, and liabilities as well as letters of explanation, verifications of rent, verifications of employment, verifications of deposit, and budget letters; (ii) paid local businesses to submit positive credit reports for consumers with whom they had no credit relationship; (iii) gave lenders telephone numbers of PHG's employees or agents to be used for verification of rental history; and (iv) forged consumers' signatures on documents containing false information that were submitted to lenders on behalf of consumers applying for credit to purchase homes from PHG;

(f) In some instances where the consumers had debts that the lender required to be paid before they would qualify for a loan, defendant Good suggested to sales managers and sales agents that they submit false invoices to be paid at the time of closing to disguise the fact that PHG or a related entity or vendor had paid off the consumer's debt prior to the closing. Additionally, defendant Good authorized consumers' debts, such as credit card debt, car loans, and other mortgages, to be paid directly by defendant PHG to the creditor prior to or at the time of closing so that the consumers would qualify for the loans, a fact that was not disclosed to the lender or on the HUD-1 Closing Statement;

(g) To further facilitate the loan process for the lenders by putting together the loan packages that the lenders should have put together, defendant Good allowed loan processors

to be hired at the Granite Falls and Burlington locations. Due to the large volume of loans coming from the PHG offices, having loan processors on site further enabled PHG to control the loan process, to provide fraudulent information to lenders, to prevent the consumers from interacting with the loan officers, and to ensure that the lenders would not take further steps to collect accurate information;

(h) PHG arranged for and submitted to lenders appraisals that grossly overvalued the land and homes they were selling. Defendant Good worked with defendant Parris to solicit appraisers who would work with PHG to appraise the property at the asking price;

(i) Defendant Good instructed PHG employees, agents and representatives to collect \$500 from each consumer at the time he or she signed the contract. Consumers understood that money to be a down payment or deposit, but none of the documents used in connection with the purchase or financing ever showed the consumers receiving credit against the purchase price for this payment;

(j) Defendant Good instructed PHG employees, agents or representatives to have consumers sign promissory notes promising to pay a sum certain if they failed to close the transaction. The threat of collecting on the promissory notes was used to coerce consumers to sign closing documents on loans with payments that were far larger than previously promised and to undermine the consumers' statutory right to cancel manufactured housing contracts. PHG further encouraged consumers to close on loans they could not afford by misrepresenting the consumers' ability to refinance the loan in a short period of time;

(k) Defendant Good instructed PHG employees, agents, and representatives to assist consumers, many of whom could not afford down payments, in making down payments through purported down payment “grants.” These grants were nothing more than expensive short-term loans with the interest and principal initially paid by defendant PHG and ultimately paid by the consumers through the inflated sales prices; and

(l) Defendant Good’s alleged unfair or deceptive business practices were in or affecting commerce in North Carolina.

4. Defendant Good neither admits nor denies plaintiff’s allegations in Paragraph 3 but does not object to the entry of this Consent Judgment to avoid incurring further litigation expense.

5. Defendant Good has provided financial information to plaintiff in connection with the settlement of this matter. Defendant Good warrants that the information provided is true and accurate and fully and fairly reflects his personal financial condition as of the date reflected on the financial information.

CONCLUSIONS OF LAW

1. The court has jurisdiction over the parties and the subject matter.
2. Entry of this Judgment is just and proper.
3. The complaint properly alleges the elements of a cause of action against defendant Good pursuant to N.C.G.S. § 75-1.1 relating to the sale of manufactured and modular homes in connection with parcels of real property at defendant PHG’s sales centers, and the Court finds good and sufficient cause to adopt the agreement of the parties and these findings of

fact and conclusions of law as its determination of their respective rights and obligations and for the entry of this Consent Judgment.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. For a period of five years from the entry of this Consent Judgment, defendant Good is enjoined from (a) engaging in any capacity in the business of advertising, marketing, buying, and selling manufactured or modular homes in North Carolina; (b) assisting any third party in any capacity in advertising, marketing, buying, and selling manufactured or modular homes in North Carolina; and (c) having any ownership interest in or receiving any monetary benefit from any entity that is engaged in the business of manufacturing, advertising, marketing, buying, and selling manufactured or modular homes in North Carolina.

2. Defendant Good shall pay the North Carolina Department of Justice \$100,000 in civil penalties. Payment of this civil penalty is suspended as long as defendant is in full compliance with the terms of this Consent Judgment. If at any time defendant violates the terms of this Consent Judgment, this penalty shall be immediately due to the State without further action of this Court.

3. This Consent Judgment shall not affect the rights of any private party to pursue any remedy or remedies allowed pursuant to the laws of the State of North Carolina.

4. This Consent Judgment Agreement shall not bind any other offices, boards, commissions, or agencies of the State of North Carolina.

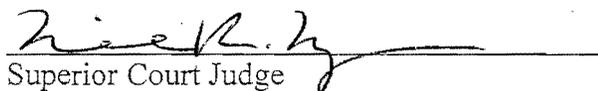
IT IS FURTHER ORDERED THAT:

5. If any part of the financial information defendant Good provided to plaintiff is false, unfair, deceptive, misleading, or inaccurate in any material respect, plaintiff, in its sole

discretion, may:

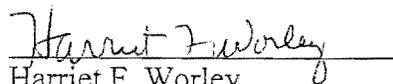
- (i) move the Court to impose sanctions; and
- (ii) seek any other remedy or relief afforded by law or equity.

This the 20th day of February, 2014.

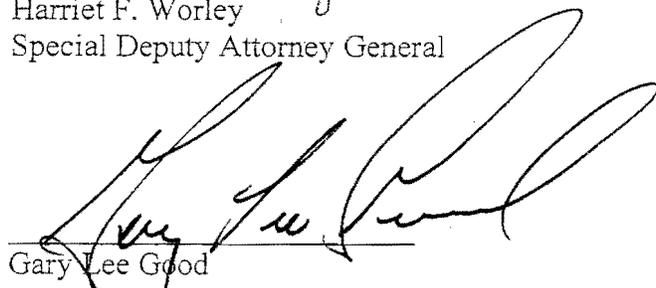

Superior Court Judge

WE CONSENT:

STATE OF NORTH CAROLINA
ex rel. ROY COOPER,
Attorney General


Harriet F. Worley
Special Deputy Attorney General


Gavin J. Reardon
Counsel for Defendant Gary Lee Good


Gary Lee Good