

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN HILLSBOROUGH COUNTY, FLORIDA
- CIVIL DIVISION -**

**OFFICE OF THE ATTORNEY GENERAL,
STATE OF FLORIDA,
DEPARTMENT OF LEGAL AFFAIRS,**

Plaintiff,

**CASE NO:
DIVISION:**

v.

**OLYMPUS POOLS, INC. and
JAMES I. STATEN, JR.,**

Defendants.

_____ /

COMPLAINT

Plaintiff, Office of the Attorney General, State of Florida, Department of Legal Affairs (the “Attorney General” or “Plaintiff”), sues Defendants, Olympus Pools, Inc., a Florida corporation (“Olympus Pools”) and James I. Staten, Jr., an individual (“Staten”) (collectively, “Defendants”), and alleges the following:

JURISDICTION AND VENUE

1. This is an action for injunctive relief, consumer restitution, civil penalties, attorney’s fees and costs, and other statutory and equitable relief against Defendants, brought pursuant to Section 501.207(2), Florida Statutes.

2. This Court has subject matter jurisdiction pursuant to the provisions of the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (hereinafter referred to as “FDUTPA”). The Attorney General

seeks relief in an amount greater than Thirty Thousand Dollars (\$30,000), exclusive of fees and costs.

3. The statutory violations alleged in this complaint (“Complaint”) occurred in, and/or affect, more than one judicial circuit, including Hillsborough County, Florida.

4. Venue is proper in the Circuit Court of the Thirteenth Judicial Circuit, in and for Hillsborough County, Florida pursuant to Section 47.011, Florida Statutes. The statutory violations alleged herein have occurred, in part, within Hillsborough County.

5. This enforcement action serves the public interest.

6. All conditions precedent to this action have been performed or have occurred within four (4) years of the filing of this action.

PARTIES

7. The Attorney General is an enforcing authority of Chapter 501, Part II, Florida Statutes, and is authorized to bring this action seeking equitable, injunctive and other statutory relief, including restitution and civil penalties, pursuant to FDUTPA.

8. Olympus Pools is an active Florida Corporation with its principal place of business located at 21859 State Road 54, Lutz, FL 33549.

9. Since 2010, Olympus Pools has been engaged in the business of

providing swimming pool design and installation services to Florida consumers.

10. Staten is an individual, who, upon information and belief, resides in Hillsborough County, Florida.

11. Upon information and belief, Staten is the owner and president of Olympus Pools, and as the president he participates in, manages, operates, and controls the day-to-day operations of Olympus Pools.

12. Further, upon information and belief, Staten is involved in making key and relevant decisions related to 1) hiring and firing employees, vendors, and subcontractors, and 2) making and/or approving operational and financial decisions, such as determining prices for goods, amounts of advance deposits required, and when, how much, and which vendor and subcontractor to pay. Staten also has direct interaction with consumers regarding sales, design, and construction of swimming pools. Moreover, upon information and belief, Staten was in control of the overall management of the business, including oversight of scheduling new projects and overseeing cash flow.

13. At all material times hereto, Staten directly participated in the unfair and deceptive acts and practices complained of herein and/or controlled or had the ability to control the actions and practices of Olympus Pools.

14. At all times material hereto, Defendants engaged in “trade or commerce” as defined in Section 501.203(8), Florida Statutes, by providing

residential swimming pool design and installation services to Florida consumers.

FACTS RELEVANT TO COMPLAINT

15. Since March 2021, Attorney General has gathered and reviewed at least two hundred (200) complaints from Florida consumers concerning Defendants' business practices, which collectively allege over eight million dollars (\$8,000,000) spent on incomplete and/or inadequate services.

16. The allegations in the consumer complaints include, but are not limited to, that Olympus Pools failed to complete swimming pool installation projects after collecting money from consumers.

17. According to the consumer complaints, prior to starting to perform swimming pool installation services, Olympus Pools entered into contractual agreements with each consumer, which set out, among other terms, the specifications of the swimming pool project, total amount to be paid for the services, and schedule of payments.

18. Many consumers allege in their written complaints that after signing a contract with Olympus Pools and paying initial deposit, or in some instances almost the entire project amount, Defendants did not follow the agreed construction schedule and/or after performing some initial work, abandoned the project without any meaningful explanation to consumers.

19. One consumer stated in the complaint that Olympus Pools excavated

a hole in his back yard for the swimming pool and ceased the work leaving a dangerous hole in the consumer's back yard.

20. Another consumer reported to the Attorney General that Olympus Pools repeatedly misstated the construction timeline and materials to be used for the project.

21. Further, some consumers stated in their complaints that Defendants failed to pay subcontractors, who performed certain work on their swimming pool projects, despite the fact that these consumers had paid Olympus Pools as agreed in the contract. Subcontractors on these projects have, in some cases, filed liens against the properties of the consumers. Thus, these consumers were forced to make duplicate payment directly to the subcontractor to obtain the release of the lien filed against their property, despite having made payment to Olympus Pools.

22. Several consumers also complained that Defendants repeatedly made false representations concerning project timelines and that they were left waiting on jobs, which were never finished.

23. Some consumers also reported that they were not able to reach Staten or any other employee of Olympus Pools.

24. Upon the Attorney General's information and belief, Defendants solicited sales from consumers despite the fact that they knew or should have known that they did not have the ability and/or resources to perform the work that

they promised and for which consumer paid.

**THE FLORIDA DECEPTIVE
AND UNFAIR TRADE PRACTICES ACT**

25. Section 501.204(1), Florida Statutes states that “[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.”

26. Section 501.203(8), Florida Statutes, defines “[t]rade or commerce” as:

the advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise, of any good or service, or any property, whether tangible or intangible, or any other article, commodity, or thing of value, wherever situated. “Trade or commerce” shall include the conduct of any trade or commerce, however denominated, including any nonprofit or not-for-profit person or activity.

27. The provisions of FDUTPA shall be “construed liberally” to promote and “protect the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce.” Fla. Stat. § 501.202.

28. A person that willfully engages in a deceptive or unfair act or practice is liable for a civil penalty of Ten Thousand Dollars (\$10,000) for each such violation, pursuant to Section 501.2075, Florida Statutes, and Fifteen Thousand Dollars (\$15,000) for each violation victimizing a senior citizen, pursuant to

Section 501.2077, Florida Statutes. Willful violations occur when the person knew or should have known that the conduct in question was deceptive or unfair or prohibited by rule, pursuant to Section 501.2075, Florida Statutes.

COUNT I
AGAINST OLYMPUS POOLS, INC.
(Violation of Chapter 501, Part II, Florida Statutes)

29. The Attorney General incorporates and re-alleges the preceding paragraphs as if fully set forth herein.

30. As set forth above, Olympus Pools has violated FDUTPA when it: (a) solicited and accepted funds from consumers for construction of a swimming pool but failed to complete the agreed-upon and paid-for work; (b) failed to pay its subcontractors for work performed despite having received funds from consumers for subcontractor work, thereby causing subcontractors to file liens on consumer properties; (c) on numerous instances, failed to issue refunds for the incomplete work.

31. Through the actions and related business practices set forth in this Complaint, Olympus Pools is engaging in representations, acts, practices or omissions that are material, and that are likely to mislead consumers acting reasonably under the circumstances.

32. The actions and related business practices of Olympus Pools as set forth in this Complaint shock the conscience.

33. Through the actions and related business practices set forth in this Complaint, Olympus Pools is committing acts or practices in trade or commerce that offend established public policy and are unethical, oppressive, unscrupulous or substantially injurious to consumers.

34. Through the actions and related business practices set forth in this Complaint, Olympus Pools is engaging in acts or practices that are likely to cause substantial injury to consumers. This substantial injury is not reasonably avoidable by the consumers themselves and is not outweighed by countervailing benefits to consumers or competition.

35. Thus, Olympus Pools engaged in unfair or deceptive or unconscionable acts or practices in the conduct of any trade or commerce in violation of Section 501.204(1), Florida Statutes.

36. Olympus Pools should be subject to civil penalties for willful violations of FDUTPA in the amount of Ten Thousand Dollars (\$10,000) for each violation pursuant to Section 501.2075, Florida Statutes, and Fifteen Thousand Dollars (\$15,000) for each violation that victimized or attempted to victimize, a senior citizen pursuant to Section 501.2077, Florida Statutes.

37. Olympus Pools willfully engaged in and could continue to engage in deceptive and unfair acts and practices in that Olympus Pools knew or should have known that the methods, acts or practices alleged herein were and are unfair,

deceptive, unconscionable and prohibited by law.

38. These above-described acts and practices of Olympus Pools have caused substantial injury to the public and will likely continue to cause injury and prejudice the public.

39. Unless Olympus Pools is temporarily and permanently enjoined from engaging further in the acts and practices complained of herein, Olympus Pools' actions will continue to result in irreparable injury to the public for which there is no adequate remedy at law.

COUNT II
AGAINST JAMES I. STATEN, JR.
(Violation of Chapter 501, Part II, Florida Statutes)

40. The Attorney General incorporates and re-alleges the preceding paragraphs as if fully set forth herein.

41. Under FDUTPA, once corporate liability is established, an individual defendant may be individually liable if he participated directly in the deceptive or unfair practices or acts, or he possessed the authority to control them.

42. Upon information and belief, during all times relevant to this action, Staten has been the owner and president of Olympus Pools and has controlled the day-to-day operations of Olympus Pools.

43. Therefore, Staten either directly has controlled, had the authority to control or was aware of the unfair and deceptive acts referenced above. Because

Staten either directly controlled or had the authority to directly control and participate in the unfair and deceptive business practices of Olympus Pools, he can be held individually liable under FDUTPA.

44. The actions and related business practices of Olympus Pools, and of Staten as the president of Olympus Pools, as set forth in this Complaint shock the conscience.

45. Through the actions and related business practices set forth in this Complaint, Staten is committing acts or practices in trade or commerce that offend established public policy and are unethical, oppressive, unscrupulous or substantially injurious to consumers.

46. Through the actions and related business practices set forth in this Complaint, Staten is engaging in acts or practices that are likely to cause substantial injury to consumers. This substantial injury is not reasonably avoidable by the consumers themselves and is not outweighed by countervailing benefits to consumers or competition.

47. Thus, Staten is engaged in unfair or deceptive or unconscionable acts or practices in the conduct of any trade or commerce in violation of Section 501.204(1), Florida Statutes.

48. Staten should be subject to civil penalties for willful violations of FDUTPA in the amount of Ten Thousand Dollars (\$10,000) for each violation

pursuant to Section 501.2075, Florida Statutes, and Fifteen Thousand Dollars (\$15,000) for each violation that victimized or attempted to victimize, a senior citizen pursuant to Section 501.2077, Florida Statutes.

49. Staten willfully engaged in and could continue to engage in deceptive and unfair acts and practices in that he knew or should have known that the methods, acts or practices alleged herein were and are unfair, deceptive, unconscionable and prohibited by law.

50. Unless Staten is temporarily and permanently enjoined from engaging further in the acts and practices complained of herein, Staten's actions will continue to result in irreparable injury to the public for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Office of the Attorney General, State of Florida, Department of Legal Affairs, prays that the Court provide the following relief:

A. Permanently enjoin Defendants, their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them, who receive actual notice of the injunction, from engaging in the acts and practices in violation of provisions of FDUTPA as specifically alleged above, and any similar acts and practices relating to offering or providing swimming pool design and installation, or other related services;

B. Award such legal, equitable, or other relief as is just and appropriate pursuant to Section 501.207(3), Florida Statutes, including but not limited to restitution to customers, disgorgement of all ill-gotten gains, and imposition of a constructive trust;

C. Assess against Defendants civil penalties in the amount of Ten Thousand Dollars (\$10,000) for each violation accordance with Section 501.2075, Florida Statutes, and Fifteen Thousand Dollars (\$15,000) for each violation that victimized or attempted to victimize, a senior citizen in accordance with Section 501.277, Florida Statutes;

D. Award the Attorney General reasonable attorneys' fees and costs pursuant to the provisions of Section 501.2105, Florida Statutes, and as otherwise allowable by applicable statutes or law; and

E. Award such other and further relief as the Court deems just and proper, including all equitable relief allowed pursuant to Sections 501.207(3), Florida Statutes.

Dated this 13th day of October 2021.

Respectfully submitted,

ASHLEY MOODY
ATTORNEY GENERAL

/s/ Robert J. Follis

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