

**CITY OF NEW YORK  
DEPARTMENT OF CONSUMER AFFAIRS**

**KEITH GALLAGHER AND KATHERINE  
GALLAGHER,**

**-and-**

**DEPARTMENT OF CONSUMER AFFAIRS,**

**Complainants,**

**-against-**

**4 SEASONS INTERIORS CORP.,**

**-and-**

**ANTHONY COZZOLINO,**

**Respondents..**

**DECISION AND ORDER**

**Record No.:  
10065-2014-ADJC**

**NOH No.:  
C0545814**

**License Nos.:  
1458680 (HIC)  
1458562 (HIS)**

An inquest<sup>1</sup> on the above matter was held on September 16, 2014.

Appearances: For the Complainants: Keith Gallagher, consumer and his attorney Roy Vasile, Esq. Although duly notified of the time and place of the hearing, respondent 4 Seasons Interiors Corp. failed to appear.

The respondent is charged with violating the following:

1. New York City Administrative Code ("Code") Section 20-700 and Title 6 of the Rules of the City of New York ("6 RCNY") Section 1-12 by engaging in a deceptive trade practice in the negotiation and performance of a Home Improvement Contract, in that Respondent received payment for services not performed and promised to complete the contracted work but failed to do so.

(Count #1);

2. Code Section 20-700 and 6 RCNY Section 1-12 by engaging in a deceptive trade practice in the negotiation and performance of a Home Improvement Contract, in that Respondent Company purported to be licensed as a Home Improvement Contractor when such was not the case. (Charge #2);

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<sup>1</sup> The inquest was held as to 4 Seasons Interiors Corp. only, the matter as to Anthony Cozzolino was adjourned in contemplation of settlement.

3. Code § 20-393(1) by materially deviating from or disregarding the plans or specifications or any terms and conditions agreed to under a home improvement contract, in that Respondent abandoned the work, without written consent of the Consumer (Count #3);
4. § 20-393(11) of the Code by failing to perform work under a home improvement contract in a skillful and competent manner (Count #4);
5. 6 RCNY § 2-223(c) by failing to treat all funds received from a customer pursuant to a home improvement contract as trust funds to be applied solely to the payment of expenses directly related to the home improvement (Count #5);
6. 6 RCNY § 2-221(a)(1) by failing to include in the Contract the contractor's correct name and license number and the salesperson's license number (Count #6);
7. 6 RCNY § 2-221(a)(2) by failing to include in the Contract the approximate or estimated dates on which the Contract work would begin and be substantially completed; a statement of any contingencies that would materially change the approximate or estimated completion date; and a statement of whether or not the parties had determined a definite completion date to be of the essence (Count #7);
8. 6 RCNY § 2-221(a)(4) by failing to include in the contract a notice to the owner that the contractor or subcontractor who performs on the contract and is not paid may have a claim against the owner which may be enforced against the property in accordance with the applicable lien laws (Count#8);
9. 6 RCNY § 2-221(a)(5) by failing to include in the contract a notice to the owner that the home improvement contractor is legally required to deposit all payments received prior to completion in accordance with subdivision four of §71-a of the New York State Lien Law and that, in lieu of such deposit, the home improvement contractor may post a bond or contract of indemnity with the owner guaranteeing the return or proper application of such payments to the purposes of the Contract (Count #9);
10. 6 RCNY § 2-221 (a)(8) by failing to include in the contract a clause wherein the contractor agrees to furnish the buyer with a Certificate of Workers' Compensation Insurance prior to commencement of work pursuant to the Contract (Count#10);

11. 6 RCNY § 2-221 (a)(9) by failing to include in the contract a clause wherein the contractor agrees to procure all permits required by law (Count #11);

12. 6 RCNY § 2-221(a)(10) by failing to include in the contract, in immediate proximity to the space reserved for the signature of the buyer and in bold face type of a minimum size of 10 points, a statement that the buyer has the right to cancel the transaction at any time prior to midnight of the third business day after the date of the transaction (Count#12);

13. 6 RCNY § 2-221(b) by failing to provide a separate Notice of Cancellation to the owner (Count#13).

14. § 20-113 of the Code by conducting activities under a name different from that of the person or organization to whom such license was issued or the trade name stated in the application therefore (Count#14);

15. 6 RCNY § 1-12 by failing to comply with the Consumer Protection Law in that they misrepresented the true identity of the Home improvement Contractor (Count#15);

16 § 20-387(a) of the Code by engaging in home improvement activity without a home improvement contractor's license (Count #16);

17. Section 20-101 of the Code by failing to maintain the standards of integrity, honesty and fair dealing required of licensees (Count #17).

Based on the evidence in the record, I **RECOMMEND** the following:

### **Findings of Fact**

On or about February 20, 2013, Keith Gallagher and Katherine Gallagher (hereinafter, "Consumers") and 4 Seasons Interiors Corp. (hereinafter, "Respondent Company") entered into an agreement, wherein the respondent company agreed to perform home improvement work to be performed on the Consumers' residential property located at 137 Beach 121 Street, Rockaway Park, Queens, NY 11694 for a total price of \$155,000.00. The consumers paid the respondent company in excess of \$170,042.00. The work was not completed and/or not performed properly. The total cost to correct and complete the work and/or to repair any damaged property and/or to compensate the consumer for additional losses is \$120,000<sup>2</sup>.

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<sup>2</sup> The consumers' application to amend the Notice of Hearing to conform to the evidence is granted. The initial allegation of \$70,000 is amended to \$120,000.

Respondent Company was not licensed at the time of the contract in question. The Department issued DCA License # 1458680 to the Respondent Company to conduct business as a Home Improvement Contractor ("HIC") at 184 Robin Rd., 2nd Fl., 2 Staten Island, NY on or about February 28, 2013. The Respondent Company was engaged in unlicensed activity for 7 days, from the date of the contract, February 20, 2013, to the day before the license was issued on February 28, 2013.

The Respondent Company pleaded or was found guilty of charged violations on home improvement work on or about October 28, 2013. (See CD500136198)

### **Opinion**

The credible evidence establishes that the consumer is entitled to restitution from the respondent company in the amount of \$140,042.00 to have the work redone and to have other contractors repair the resulting damage.

Cost of Correction and completion and cost to compensate for additional losses:	\$120,000.00
plus amount overpaid on contract:	<u>\$ 20,042.00</u>
Restitution Due:	<u>\$140,042.00</u>

Accordingly, the consumer is entitled to restitution in the amount of \$140,042.00.

### **ORDER**

The Respondent Company is found **guilty** with respect to the charges as set forth in the Notice of Hearing, and is hereby

**Ordered to pay to the Department a TOTAL FINE of \$14,200, which is immediately due and owing, as follows:**

Charge 1:	\$ 500 (\$ 500 per count, for 1 count)
Charge 2:	\$ 500 (\$ 500 per count, for 1 count)
Charge 3:	\$1,000 (\$1,000 per count, for 1 count)
Charge 4:	\$1,000 (\$1,000 per count, for 1 count)
Charge 5:	\$1,000 (\$1,000 per count, for 1 count)
Charge 6:	\$1,000 (\$1,000 per count, for 1 count)
Charge 7:	\$1,000 (\$1,000 per count, for 1 count)
Charge 8:	\$1,000 (\$1,000 per count, for 1 count)

Charge 9:	\$1,000 (\$1,000 per count, for 1 count)
Charge 10:	\$1,000 (\$1,000 per count, for 1 count)
Charge 11:	\$1,000 (\$1,000 per count, for 1 count)
Charge 12:	\$1,000 (\$1,000 per count, for 1 count)
Charge 13:	\$1,000 (\$1,000 per count, for 1 count)
Charge 14:	\$ 500 (\$ 500 per count, for 1 count)
Charge 15:	\$0
Charge 16:	\$1,000, plus \$700 (\$100 per day of unlicensed activity, for 7 days).
Charge 17:	Revocation of License

**As the Respondent Company is found guilty of violating Administrative Code Section 20-101, to the extent not already done so or if applicable, the Home Improvement Contractor License (“HIC”) is REVOKED, EFFECTIVE IMMEDIATELY.** The respondent is directed to surrender all license documents to the Licensing Division immediately. Continued operation with revoked licenses subjects the respondent to CRIMINAL PROSECUTION and/or civil penalties of \$100 per day for each day of unlicensed activity, as well as the closing of the unlicensed business and/or the removal of items sold, offered for sale, or utilized in the operation of the unlicensed business, pursuant to the Administrative Code of the City of New York Sections 20-105 and 20-106 (the “Padlock Law”).

It is also hereby **DECLARED** that the Respondent Company is deemed unfit to hold any Department of Consumer Affairs license in the future.

The Respondent Company is **ORDERED to pay RESTITUTION to the consumer in the amount of \$140,042.00.** The award must be paid by certified check, money order or attorney trust account. The respondent company must provide to the Department proof of payment of the restitution to the Consumer within thirty (30) days of the date of this decision, to the following address: “NYC Department of Consumer Affairs, Collections Division - Accounts Receivable, 42 Broadway, 9<sup>th</sup> Floor, New York, NY 10004” or by emailing such proof to: [collections@dca.nyc.gov](mailto:collections@dca.nyc.gov). The failure to pay restitution or to provide to the Department proof of payment within thirty (30) days of the date of this decision will result in the revocation of any license held by the respondents’, without further notice to the respondents.

**This constitutes the recommendation of the Administrative Law Judge.**

**Alexandra F. Pinilla**  
**Administrative Law Judge**

**DECISION AND ORDER**

**The recommendation of the Administrative Law Judge is approved.**

**This constitutes the Decision and Order of the Department.**

**The Department will suspend the respondent's DCA license(s) if the respondent fails to comply with this Decision and Order, including payment of the fine. Payment with a check that is dishonored or a credit card transaction that is denied or reversed will not be considered compliance with this Decision and Order. The license(s) will not be reinstated until the respondent has served any suspension period ordered in this Decision and has paid ALL fines owed to the Department.**

**Date: September 30, 2014**

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**Eryn DeFontes**  
**Associate Director of Adjudication**

cc: [krkal@yahoo.com](mailto:krkal@yahoo.com)

[4seasonsinterior@gmail.com](mailto:4seasonsinterior@gmail.com)

Susan Kassapian, Esq.  
Senior Counsel  
Legal Division

Jordan Cohen, Esq.  
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Legal Division

<p><b><u>Mail payment in the enclosed envelope addressed to:</u></b> NYC Department of Consumer Affairs Collections Division 42 Broadway, 9<sup>th</sup> Floor New York, NY 10004</p>
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**APPEALS**

**RESPONDENT(S)**: You may file a **MOTION TO VACATE** this decision **within 15 days** from the date you knew or should have known of this decision. Your motion **must** include: 1) the reason you did not appear at the hearing; AND 2) a sworn statement outlining a meritorious defense to the charge(s) in the Notice of Hearing. You must include with your motion a check or money order for \$25 payable to DCA; and a check or money order payable to DCA for the entire restitution amount you were ordered to pay in the decision. You may file your Motion to Vacate either by email or regular mail, as follows:

**BY EMAIL**: Send your motion to [myappeal@dca.nyc.gov](mailto:myappeal@dca.nyc.gov) and, at the same time, mail the \$25 appeal fee and the restitution to: DCA Administrative Tribunal, 66 John Street, 11<sup>th</sup> Floor, New York, NY 10038. Make sure to write the violation number(s) on your check or money order. **NOTE**: The determination on your motion to vacate may be sent to you by email if you choose to submit your motion to us by email.

**BY REGULAR MAIL**: Send your motion, along with the \$25 fee and the restitution, to: Director of Adjudication, Department of Consumer Affairs, 66 John Street, 11<sup>th</sup> Floor, New York, NY 10038. **Make sure to include in your motion** some indication or proof that you have sent copies of the motion **TO THE CONSUMER** at the consumer's address, **AND to DCA'S LEGAL DIVISION**, 42 Broadway, 9<sup>th</sup> Floor, New York, NY 10004.

**CONSUMER**: You may file an **APPEAL** of this decision **within 30 days from the date of the decision**. You may file your Appeal either by email or regular mail, as follows: **BY EMAIL**: Send your appeal to [myappeal@dca.nyc.gov](mailto:myappeal@dca.nyc.gov). **NOTE**: The determination on your motion to vacate may be sent to you by email if you choose to submit your motion to us by email.

**BY REGULAR MAIL**: Send your appeal to: Director of Adjudication, Department of Consumer Affairs, 66 John Street, 11<sup>th</sup> Floor, New York, NY 10038. **Make sure to send a copy of your appeal to each of the respondents.**

**IMPORTANT NOTICE TO BOTH PARTIES**

**YOUR MOTION OR APPEAL MAY BE DENIED IF YOU DO NOT INCLUDE SOME INDICATION THAT YOU HAVE SENT A COPY OF IT TO EACH OF THE OPPOSING PARTIES LISTED IN THE NOTICE OF HEARING.**