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IRIS Y. MARTINEZ
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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

_____)	
City of Chicago,)	
)	
Plaintiff,)	2023CH04627
)	Case No. _____
v.)	
)	
Sun Badger Solar LLC, d/b/a Sun Badger Solar;)	
Kristopher Sipe; Trevor Sumner;)	
)	
Defendants.)	
_____)	

FILED DATE: 5/10/2023 4:05 PM 2023CH04627

COMPLAINT

Plaintiff City of Chicago files this Complaint because Defendants committed deceptive and unfair practices in violation of the City’s Municipal Code in the course of selling residential solar panel systems to Chicagoans.

INTRODUCTION

1. Defendant Sun Badger Solar LLC, d/b/a Sun Badger Solar, until recently one of the Midwest’s most rapidly growing solar energy companies, has since its founding promoted residential photovoltaic (solar panel) systems as an easy way to save money on home electric bills.

2. Sun Badger began experiencing serious financial trouble in at least the spring of 2022, causing the company to struggle to perform on its existing contracts, yet the company continued to enter into contracts for solar installations throughout 2022.

3. On information and belief, in or about Spring 2022, Defendants required sales representatives to promise Chicago consumers that Sun Badger could install full solar systems in 3-4 months, even when those sales representatives knew that the fulfillment timelines extended out more than 12 months. Defendants also pressured sales representatives to offer a variety of financial incentives to encourage all-cash payment for solar systems, with 50% due upon signing.

4. Unwitting Chicagoans, attracted to promised all-cash discounts and short installation timelines, contracted with Sun Badger for solar installations that, on information and belief, Sun Badger knew it could not complete.

5. On information and belief, Defendants robbed Peter to pay Paul, using the cash deposits paid by consumers to keep the business afloat and pay off existing debts without any plan to perform on the contracts.

6. Based on the examples the City has seen, Chicago consumers paid an average of \$13,000 in deposits for solar installations. Some customers also incurred additional expenses to prepare their roofs or electrical systems for solar installations. Other Chicagoans took out loans to finance the installation of solar panels that never arrived.

7. To make matters worse, throughout the Fall of 2022, Sun Badger falsely blamed the City of Chicago's "bureaucratic" solar permitting process for Sun Badger's inability to perform on its contracts. In reality, Sun Badger had never applied for the solar permits it claimed were tied up by the City's permitting review process.

8. By November or December 2022, the company could not pay its employees and was close to collapse, but Sun Badger continued to represent to consumers that it would install their solar systems in the coming weeks and months.

9. In February 2023, Sun Badger abruptly shut down, leaving hundreds of consumers across the Midwest without their contracted-for solar systems and failing to refund consumers the thousands of dollars they had paid.¹ Defendants have terminated their LLC, leaving Chicago consumers in limbo.

¹ <https://www.tmj4.com/news/i-team/tmj4-investigates-local-solar-power-company-after-claims-of-unfinished-work-and-unpaid-employees>

10. Defendants' conduct violates the Municipal Code of Chicago ("MCC") in two principal respects. First, Defendants offered solar panel installations that Defendants knew they could not provide within the promised installation timelines, thereby inducing Chicago consumers to sign unfulfillable contracts and put down thousands of dollars in cash deposits.

11. Second, Defendants lied to Chicago consumers about the status of their permitting applications to obfuscate the true reason for Sun Badger's failure to perform on the contracts and prevent consumers from seeking refunds that Sun Badger could not afford to pay.

12. By seeking closure for themselves, Defendants have neglected their obligations to Chicagoans and unjustly retained money they have not earned. The City therefore files this action to hold Defendants accountable for their actions.

THE PARTIES

13. Plaintiff City of Chicago is a municipal corporation and a home-rule unit organized under Illinois law.

14. Defendant Sun Badger Solar, LLC, d/b/a Sun Badger Solar ("Sun Badger") is a dissolved limited liability company that, until its voluntary termination, was organized under Illinois law with its principal place of business in Arlington Heights, Illinois. Sun Badger engaged in solar panel installation in Chicago and in Minnesota, Wisconsin, Iowa, and Florida. Sun Badger coordinated and directly engaged in the conduct described in this complaint.

15. Defendant Trevor Sumner was at all times relevant to this complaint the President and co-owner of Sun Badger Solar, LLC. He is a resident of Wisconsin. Sumner directed and controlled the practices of Sun Badger.

16. Defendant Kristopher (a/k/a “Kris” or “Kristen”) Sipe was at all times relevant to this complaint the Chief Operating Officer (“COO”) and co-owner of Sun Badger. On information and belief, Sipe is a resident of Florida. Sipe directed and controlled the practices of Sun Badger.

17. Together, Defendants Sumner and Sipe are the “Individual Defendants.”

JURISDICTION AND VENUE

18. The Court has subject-matter jurisdiction under Article VI, Section 9 of the Illinois Constitution.

19. The Court has personal jurisdiction over Sun Badger under 735 ILCS 5/2-209 because Sun Badger has conducted business in Illinois, was organized under the laws of Illinois, and has entered into contracts or made promises that are substantially connected to Illinois.

20. The Court has personal jurisdiction over Defendants Sipe and Sumner under 735 ILCS 5/2-209 because Sipe and Sumner performed duties as directors or officers of a corporation organized under the laws of Illinois and having its principal place of business in Illinois.

21. Venue is proper under 735 ILCS 5/2-101 because part of the transactions underlying Chicago’s claims occurred in Cook County.

GENERAL ALLEGATIONS

I. The City Uses Two Solar Panel Permitting Programs, Which Have Not Materially Changed Since 2013.

22. To ensure Chicagoans’ safety, the City requires that all photovoltaic systems constructed in Chicago be reviewed and permitted by the Department of Buildings. The City maintains two separate permitting programs, depending on the type of solar system installation.

23. The City began operating the “Solar Express Easy Permit” program in or about 2013, which streamlined requests for unballasted solar panels. Through the Solar Express Easy Permit program, unballasted solar panels, which are mounted directly into the roof of a building,

require an “Easy Permit.” Easy Permits are expedited permits that can be reviewed and issued in as little as 14 days.

24. All Solar Express Easy Permits issued by the City are processed by one City employee, who in 2022 reviewed and approved approximately 1,000 Easy Permits for solar panel installation.

25. Ballasted solar panels, which are not mounted directly into the roof of a building but instead are attached to the top of the roof using concrete or similar material, cannot go through the Easy Permit process. Instead, ballasted systems are subject to Standard Plan Review, also known as E Plan Review.

26. The City’s Photovoltaic Panel Permitting Guidelines, published in October 2013, state clearly that ballasted systems require more extensive structural review and cannot go through the Easy Permit process:

DOB - STRUCTURAL	Mounting Structure	System’s mounting structure is an engineered product designed to mount PV modules to rooftops, and is adequate to support all gravity and wind loads.
	PV Panel Dead Load	System’s distributed system weight (PV equipment and framing) is less than or equal to 5 lb/ft² (psf). Ballasted systems do <u>not</u> qualify for the Easy Permit Process.

11) If ballasted, determine if the roof structure can support the additional ballast weight. An architect or structural engineer, licensed in the State of Illinois, will be required to determine the adequacy of the existing roof structure to support the additional dead load. The adequacy of the existing roof structure to support the additional loads will be determined by calculation using accepted engineering practice, standards of the industry and the requirements of the Chicago Building Code. Stamped and signed calculations shall be submitted with the completed application. Permit applications for ballasted PV Panel installations cannot use the Easy Permit Process.

27. Permit applications going through Standard Plan Review may be submitted to the City for review by certain categories of licensed professionals, such as architects or structural engineers, or else by a licensed permit expediter.

28. Entities wishing to submit permits for Standard Plan Review can hire a licensed permit expediter or seek a license to become a permit expediter from the City’s Department of Business Affairs and Consumer Protection.

29. Standard Plan Review takes longer than Solar Express Easy Permits review. In February 2023, the average processing time for a permit undergoing Standard Plan Review was 43 days.

30. The processing time for Standard Plan Review permits was substantially similar throughout 2022.

II. Defendants Knew That the City Required Standard Plan Review for Ballasted Systems.

31. On October 28, 2021, a Sun Badger employee emailed the City employee responsible for reviewing solar panel permits to ask whether there is a difference in approval timelines between ballasted and unballasted systems. That City employee responded, “Ballasted can’t go through Solar Express.”

32. The Sun Badger employee replied to this email, “Understood, thank you for the quick response.”

33. On August 1, 2022, another Sun Badger employee emailed Easy Permit application materials and plans to the same City employee for the installation of a ballasted system. The City employee responded by reminding the Sun Badger employee that ballasted systems “may not go through the Solar Express process. You must submit this through standard plan review (E Plan).”

34. In an email response, the Sun Badger employee wrote that he “understood” the City employee’s direction, and asked, “did something change with the city?”

35. The City employee told the Sun Badger employee that nothing had changed and directed him to the portion of the City’s Photovoltaic Panel Permitting Guidelines that explains the additional structural review requirements for ballasted systems.

36. Sun Badger successfully submitted a permit application under Standard Plan Review for a different ballasted system on October 25, 2022.

III. Sun Badger Misled Consumers to Obtain Cash Deposits.

37. News media has reported that Sun Badger hired Deloitte Risk and Financial Advisory to assist with an internal investigation into a former employee's misappropriation of company funds. The employee's role with the company was terminated in February 2022. Deloitte's confidential report, dated April 2022, identified as much as \$500,000 of inappropriate disbursements and payments to the employee.²

38. On information and belief, Sun Badger began to have problems fulfilling contracts at least as early as April 2022.

39. Sun Badger struggled to obtain solar panels beginning in or about April 2022, resulting in extended installation timelines. By about April or May 2022, the City's investigation shows, Sun Badger's installation timelines in Illinois had stretched to 8-12 months.

40. Despite the company's problems, Sun Badger instructed its sales employees to continue to promise installation timelines of as little as 4 months. Sun Badger leadership knew that this installation timeline was not reflective of current conditions and was highly unlikely, if not impossible, due to Sun Badger's financial and/or supply chain issues.

41. The installation timeline is material to consumers seeking solar panel systems. A reasonable consumer would likely decline to contract with Sun Badger if that consumer knew that Sun Badger would be unable to perform on the contract for almost a year.

² <https://www.tmj4.com/news/i-team/i-team-local-solar-panel-company-facing-several-lawsuits-after-complaints-of-unfinished-work>

42. Sun Badger employees knew that the company was requiring them to make promises they could not keep. As employees wrote on the company review site Glassdoor:

1.0 ★

Current Employee

Not a good place to work

Dec 17, 2022 - Solar Energy Consultant

Recommend CEO Approval Business Outlook

Pros

The people I work with are some of the best.

Cons

Massive layoffs. No cash to pay for product. Told to lie to customers about install times and reasons behind delays. We tell customers that there are material delays, but the company has no money to pay for product. Massive layoffs. DO NOT WORK HERE... No transparency, and leadership just misleads staff continually.

Advice to Management

Be honest. Don't lie to new reps when hiring them like you did me.

4 people found this review helpful

Helpful Share

Report

An absolute nightmare

Dec 28, 2022 - Solar Sales Consultant in Minneapolis, MN

Recommend CEO Approval Business Outlook

Pros

Co workers were wonderful before they fired everyone.

Cons

Before I get into anything else... one of the owners (C suite) screen shared pornography on an all company call. Completely unacceptable and was never discussed or apologized for. After that he proceeded to join all company calls and comment on the looks of staff members in very inappropriate ways.

Commissions were paid out only after jobs were completed (in pretty clear violation of our employment contract). This would have been fine, but jobs took up to 18 months in some markets to get put up. This is long enough that when a customer was signed and planned to finance the project, they would have to reapply after 8 months, as the loan had expired. This gave the customers higher interest rates than they were sold on. (0.49% to 1.99% or higher. There are many customers affected by this change that have yet to be contacted, as their install is farther than 8 months out. This means their interest rate could go up TENFOLD or more) If they choose to cancel the project due to Sun Badger incompetence, they would be asked to sign a gag order asking them to not leave negative reviews or they will be asked to pay huge penalties. Until very recently we were told to tell customers that jobs could be put up in as little as 4 months. At many points in my tenure at Sun Badger these issues could have been addressed by management. Install teams could have been built out, electricians could have been hired. They could have taken the tens of millions in sold jobs and built them, becoming rich doing so. Instead they tried to hire people at below market wages (which obviously didn't work) and tried to get the company ready to sell off to private equity. Unfortunately the company wasn't functional at that point and they were under investigation by state and federal authorities for fraud and wage theft.

While this was happening, one of the owners of the company was asking customers to leave google reviews saying he is a "stand up guy" and posting about how great of a person/leader he is on linkedin. What an ego?!? Paychecks have stopped being issued. The Minnesota install team is no longer functional, meaning all of the jobs that were sold cannot be built unless they hire installers, which they have no money to do. They have taken money out of checks for 401k and have not deposited them into my 401k account. As for customers, some have had liens placed on their house by contractors we worked with who have not been paid. It is a nightmare scenario all around, but according to management it isn't their fault. I am embarrassed and ashamed to have ever worked for this company. For my customers, I am sorry that I believed the company had the ability to ever complete your solar installations. They conned their employees too. Fingers crossed you get your money back from these crooks.

Advice to Management

You may be headed to jail soon. Good luck. It didnt need to be this way

43. Further, based on the City's investigation, Sun Badger encouraged its sales employees to offer significant discounts to consumers willing to pay for photovoltaic systems in cash with a 50% deposit upon signing.

44. On information and belief, Sun Badger intended to use these cash deposits to keep the company afloat and had no intention to install solar systems in 4 months' time, if at all.

45. The City's investigation reveals that Sun Badger routinely told Chicago consumers to expect an installation timeline of approximately 4 months, only to quote significantly longer installation timelines after the contract was signed.

46. Sun Badger's installation contracts contain standard language indicating that the consumer can expect "substantial completion" of the photovoltaic system installation within four months. For example, an installation contract between Sun Badger and a Chicago consumer, which was signed in August 2022, provides:

9. **SYSTEM INSTALLATION TIMELINE.** Sun Badger wants to ensure that your System is installed as promptly as possible. Typical installations reach substantial completion inside of 4 months, following the review of the final layout or Change Order when applicable. We will need your cooperation to achieve this estimated timeline. For instance, we are going to need you to provide us with access to the Property and your assistance with the preparation and execution of necessary paperwork. This timeline may be affected by circumstances outside of Sun Badger's control including any delay caused by an Unforeseen Event or any delay caused during the time in which you are required to address and remedy a problem related to Excluded Work (see Paragraphs 2(a) and 3 of the Contract's General Terms and Conditions). Sun Badger is always willing to work with you and answer your questions regarding any scheduling problems that may arise or the timeline for installation of your System.

47. The consumer who signed the contract from which the City obtained the excerpt above attended an introductory webinar on September 2, 2022, approximately 8 days after the contract was signed. During that webinar, a Sun Badger employee stated that the installation timeline could be anywhere from 4-8 months long, contradicting the timeline quoted in the contract.

IV. Sun Badger Falsely Attributed Installation Delays to the City.

48. In or about August 2022, Sun Badger employees began to tell Chicago consumers to expect delays because the City had changed its permitting process for ballasted systems.

49. As discussed more fully in Section I, *infra*, the City did not change the photovoltaic permitting process in 2022.

50. On information and belief, Sun Badger employees falsely attributed project delays to the City to conceal the extent of Sun Badger's financial and logistical difficulties.

51. On information and belief, Sun Badger did not have the cash on hand to provide refunds to consumers who wished to terminate their contracts due to unacceptable delays.

52. Sun Badger's misrepresentations about the City's permitting process were material to consumers. A reasonable consumer would quickly seek a refund or other recourse if that consumer knew that the delay in installation was due to Sun Badger's financial problems and other mismanagement. A reasonable consumer may also consider hiring a different company if that

consumer knew that the delayed installation was due to Sun Badger’s unique cash flow problems and was not industry-wide.

53. Below are stories of Chicago consumers whom Defendants deceived and treated unfairly. They are examples only; there likely are many other consumers with similar stories.

Consumer A

54. Consumer A, a Chicago homeowner, signed a contract with Sun Badger on April 14, 2022, and paid a deposit of \$15,446 that same day.

55. At the time that Consumer A signed the contract, a Sun Badger representative told him to assume the installation would be complete in 3-4 months, though the representative indicated that timelines could “move around.”

56. In late summer of 2022, Sun Badger employees came to Consumer A’s home and completed the initial survey and inspection.

57. On August 17, 2022, Consumer A received an email from a Sun Badger employee, “Ryan,” informing him to expect delays due to a change in the City’s solar permitting process:

On Aug 17, 2022, at 1:05 PM, Sun Badger Team - IL
<illinoisprojectmanagement@sunbadger.com> wrote:

Good afternoon,

We just wanted to provide an update on your system. Chicago just recently informed us that they are requiring an expeditor in order to submit permits for ballasted solar systems, which yours is. We are working to become an approved expeditor. I will make sure your system is prioritized once it reaches our installation phase.

Thanks,
Ryan

58. In follow-up emails that same day, Consumer A asked how much of a delay he should expect, and Ryan told him that “this is not something that we have a timeline for.”

59. On September 2, 2022, Ryan told Consumer A that Sun Badger intended to hire a permit expediter to file the permit for Consumer A's installation and intended to have the permit application submitted "next week."

60. On September 13, a Sun Badger employee emailed Consumer A:

We are working with two expeditors right now to see who can take on the work and how long that will take. It sounds like since Chicago has activated this requirement all the current expeditors are being loaded down with projects. We are hoping to have a definitive answer by next week. I do apologize for them throwing off our timeline!

61. As discussed in Section I, *infra*, the City solar panel permitting process has not materially changed since it was established in or about 2013.

62. More than two weeks later, on September 30, 2022, Ryan emailed Consumer A to state that the expediter that Sun Badger had hired to handle his application had submitted the permit application "this week."

63. City records demonstrate that no solar installation permit application was ever filed at Consumer A's address.

64. In or about December 2022, Consumer A spoke on the phone with a Sun Badger employee. That employee said that permit applications were still delayed by the City, suggested that this was an industry-wide problem, and stated that all solar energy companies were "fighting the same fight." When Consumer A asked the Sun Badger employee whether this delay could prevent Sun Badger from completing the project, the employee reassured Consumer A that though permitting might take a little longer, his system should be installed by Spring 2023.

65. To date, Consumer A has not received a refund.

Consumer B

66. Consumer B, a Chicago couple, initially signed an installation contract with Sun Badger on May 25, 2022. Consumer B made a 50% down payment of \$13,265 shortly after signing.

67. At the time that Consumer B signed the contract, a Sun Badger employee suggested that typical installations would take about 4 months, but that Consumer B’s installation would take about 4-5 months due to unique features of Consumer B’s roof, and possibly longer due to the City’s permitting requirements.

68. Additionally, a Sun Badger employee told Consumer B that it would be difficult to install solar panels on their roof because of unique features of the roof’s design. In or about June 2022, based on Sun Badger’s assessment of the roof’s design features, Consumer B spent approximately \$3,000 to modify the roof to be suitable for a ballasted photovoltaic system.

69. In August 2022, Ryan, a Sun Badger employee, emailed Consumer B to say that the City’s permit review system had changed:

On Wednesday, August 17, 2022, 1:05 PM, Sun Badger Team
- IL <illinoisprojectmanagement@sunbadger.com> wrote:

Good afternoon,

We just wanted to provide an update on your system. Chicago just recently informed us that they are requiring an expeditor in order to submit permits for ballasted solar systems, which yours is. We are working to become an approved expeditor. I will make sure your system is prioritized once it reaches our installation phase.

Thanks,
Ryan

ILLINOIS PROJECT MANAGEMENT TEAM

w: www.sunbadger.com p: (630) 642-9412
2420 E Oakton St Unit K, Arlington Heights, IL 60005

70. On October 5, 2022, Ryan again emailed Consumer B and informed them that the expeditor Sun Badger had hired was “working to submit this by the end of the week.” Ryan promised to be in touch.

71. On November 1, 2022, Consumer B emailed to ask for a progress update.

72. On November 2, 2022, Ryan informed Consumer B, “this is in the hands of Chicago’s permitting. We hope to have it shortly.”

73. The following week, Consumer B asked Ryan whether they should reach out to their alderman to check why the permit application was taking so long, and Ryan encouraged Consumer B to do so. Consumer B learned from their alderman that the building department should have issued an application number, which the expediter could use to track the status of the permit.

74. Consumer B emailed Ryan on November 17, 2022, to obtain the permit application number. Ryan replied to Consumer B’s email that same day, promising to send the application number as soon as he received it from the expediter.

75. Also on November 17, 2022, Consumer B emailed the City’s Department of Buildings Easy Permit email address, asking for an update on the status of the application. The City employee responsible for reviewing solar permits replied to Consumer B that Sun Badger had not submitted an application for a photovoltaic system at Consumer B’s address through either E Plan or Easy Permit.

76. In fact, as of November 2022, the City had not received any permit applications, of any kind, for Consumer B’s address since the 1980s.

77. Despite the fact that Sun Badger had not submitted any permit applications, Sun Badger employees continued to falsely blame installation delays on the City’s permit review process. On December 6, 2022, Sun Badger employee Ryan again told Consumer B that the delay was due to the City’s slow permitting process:

Good morning,

We have been working on a two pronged approach in order to get your permit through with Chicago. As soon as the new Chicago process started, we hired and paid an expeditor to submit your permit on our behalf to get approval as soon as possible. At the same time, we started the application process for our own expeditor license. We are waiting on both of these and as you know, getting answers from Chicago is never easy. I will continue to check in with the expeditor as well as the city to get your permit through as quickly as possible.

Thanks,
Ryan

78. Sun Badger’s material misrepresentations about the estimated installation timeline led Consumer B to enter into a contract for solar panel installation, and spend thousands of dollars on roof improvements, for a system that would never materialize. Sun Badger’s material misrepresentations about the City’s permitting system prevented Consumer B from learning the real reason for Sun Badger’s delay and timely seeking a refund or other recourse.

79. Both Consumer A and Consumer B have posted on a private Facebook page, titled “Sun Badger Solar Bad Reviews,” in which Sun Badger customers, vendors, and former employees share stories of Defendants’ unmet promises. This group has over 500 members, from at least five states, who have been harmed by Defendants’ conduct.

V. The Individual Defendants Controlled and Directed Sun Badger’s Conduct.

80. Trevor Sumner holds himself out as co-founder, co-owner and President of Sun Badger.

81. Kristopher (a/k/a “Kris” or “Kristen”) Sipe holds himself out as co-founder, co-owner and Chief Operating Officer (“COO”) of Sun Badger.

82. As co-owners and officers of Sun Badger, the Individual Defendants controlled Defendant Sun Badger’s conduct, including its deceptive and misleading practices.

83. The Individual Defendants are well aware of the harms their company has caused through its deceptive and unfair practices. On January 13, 2023, the Individual Defendants sent an email to numerous Chicago customers, stating that they had “come to realize that we overestimated our ability to fulfill some of our commitments in a timeframe that meets our standards... We apologize for any lapse in communication you have experienced. We will be reaching out to you in the coming weeks with a status update on your project and next steps.”

84. Numerous Chicago customers reported that this was the last communication they received from Sun Badger or the Individual Defendants.

85. Defendant Sumner has made statements to local media apologizing for the harm his company's practices have caused.³

86. The Individual Defendants administratively terminated the LLC on March 1, 2023, despite numerous unfulfilled contracts with Chicago victims.

VI. The Individual Defendants Have Been Involved in Similar Conduct.

87. Defendants Sipe and Sumner had been involved with these misleading and deceptive sales tactics before. Defendant Sipe is the former Vice President of Minnesota-based solar company Able Energy. Defendant Sumner is also a former employee of Able Energy.⁴ In 2021, the former CEO of Able Energy, Michael James Harvey, was charged with more than 50 counts of theft by swindle across multiple counties in Minnesota and ordered to pay approximately \$2.25 million in restitution to customers across two states for falsely promising to provide and install solar panels that customers put down hefty deposits to secure.⁵

88. In September 2022 in Hennepin County, Minnesota, Mr. Harvey pleaded guilty to theft by swindle and was sentenced to six months in prison and ordered to pay \$785,000 in restitution to 39 victims.⁶ At his sentencing hearing, despite evidence that Mr. Harvey was the mastermind behind the theft of more than one million dollars from unsuspecting customers, Mr.

³ <https://www.tmj4.com/news/i-team/tmj4-investigates-local-solar-power-company-after-claims-of-unfinished-work-and-unpaid-employees>

⁴ <https://www.wpr.org/sun-badger-solar-furloughs-financing-customers-could-lose-thousands-incomplete-projects>

⁵ <https://www.piercecountyjournal.news/stories/rt-businessman-charged-with-swindling-thousands-from-clients.31226>

⁶ <https://www.startribune.com/solar-installer-sentenced-to-six-months-for-swindling-dozens-of-clients/600204374/>; see also September 19, 2022, Amended Sentencing Order, Dkt #38, in State of Minnesota v. Michael James Harvey, 27-CR-21-16205 (Hennepin Cty. 2021).

Harvey’s attorney argued that the collapse of the business was partially the fault of an unnamed former attorney who had allegedly embezzled approximately \$250,000 from the company.

89. Multiple jurisdictions have launched both civil and criminal investigations against Sun Badger for conduct substantially similar to what is described in this Complaint. For example, the Minnesota Attorney General’s office is investigating Sun Badger for entering into installation contracts with Minnesota homeowners when Sun Badger had no intention to perform under those contracts;⁷ the Dane County Sheriff’s Office is investigating Sun Badger and its officers for theft by contractor, a criminal violation,⁸ and the Wisconsin Department of Revenue has filed a tax warrant against Sun Badger.⁹

90. In March 2023, before filing this Complaint, the City issued an investigative subpoena to Defendants and offered to discuss the subpoena after the Individual Defendants had a chance to review. Defendants failed to comply or otherwise respond to the City’s subpoena.

COUNT 1

Violation of MCC § 2-25-090

91. Chicago incorporates all preceding allegations as if they were set forth herein.

92. MCC § 2-25-090 prohibits “any act of consumer fraud, unfair method of competition, or deceptive practice while conducting any trade or business in the city,” including “[a]ny conduct constituting an unlawful practice under the Illinois Consumer Fraud and Deceptive Business Practices Act . . . or constituting a violation of any section of this Code relating to business operations or consumer protection.”

⁷ <https://www.wpr.org/file/minnesota-ag-letter-jpg>

⁸ <https://www.jsonline.com/story/money/business/energy/2023/04/07/dane-county-investigating-fraud-complaints-against-sun-badger-solar/70088612007/>

⁹ <https://www.tmj4.com/news/i-team/i-team-local-solar-panel-company-facing-several-lawsuits-after-complaints-of-unfinished-work>

93. The Illinois Consumer Fraud and Deceptive Business Practices Act, in turn, prohibits unfair practices that offend public policy, are immoral, unethical, oppressive, and unscrupulous, and/or cause substantial injury to consumers.

94. Defendants have engaged in unfair practices because their conduct offended public policy, is immoral, unethical, oppressive, and unscrupulous, and causes substantial injury to consumers. Specifically, Defendants have violated MCC § 2-25-090 under this standard including by:

- a. Providing misleadingly optimistic installation timelines to potential customers despite knowing that financial and supply chain issues made those timelines unlikely or impossible to fulfill; and
- b. Offering all-cash discounts for the purpose of keeping the failing business afloat, without any intention to deliver on the contracted-for installations.

95. Defendants have engaged in deceptive acts and practices while conducting their solar business in Chicago, including by:

- a. Providing misleading installation timelines to potential customers despite knowing that financial and supply chain issues made those timelines unlikely or impossible to fulfill;
- b. Offering solar panel installation contracts without any intent to perform on those contracts;
- c. Falsely claiming to have submitted permit applications to the City for review, when in fact no permit application had been submitted; and
- d. Falsely stating that permit application delays were caused by changes to City permitting guidelines, when those guidelines had not materially changed since 2013.

96. The MCC provides that any person “who violates any of the requirements of this section shall be subject to a fine of not less than \$500 nor more than \$10,000 for each offense. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.” MCC § 2-25-090(f). The City is therefore entitled to fines for each day that Defendants violated MCC § 2-25-090.

97. The MCC also authorizes “injunctive” and “equitable” relief for violations of Section 2-25-090. MCC § 2-25-090(e)(4). Chicago is therefore entitled to injunctive and equitable relief.

98. WHEREFORE, the City respectfully requests that this Court enter an order (a) awarding judgment in the City’s favor on Count 1; (b) declaring that Defendants violated MCC § 2-25-090; (c) enjoining Defendants from engaging in business in the City of Chicago; (d) enjoining Defendants from engaging in unfair and deceptive business practices as described in this Complaint; (e) assessing Defendants a fine for each violation of MCC § 2-25-090, in the amount of \$10,000 for each day such violation has existed and continues to exist; (f) requiring Defendants to pay restitution to Chicago consumers; (g) requiring Defendants to disgorge profits; (h) awarding such other injunctive and declaratory relief as is necessary; and (i) awarding such other relief as the Court deems reasonable and just.

COUNT 2
Violation of MCC § 4-276-470

99. Chicago incorporates all preceding allegations as if they were set forth herein.

100. MCC § 4-276-470(a)(5) forbids any person from making “false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions, or engaging in any other pricing conduct causing confusion or misunderstanding.”

101. MCC § 4-276-470(a)(10) forbids any person from “failing to state a material fact, if such failure tends to deceive or mislead.”

102. Defendants have engaged in practices that violate the foregoing provisions of MCC § 4-276-470, including by:

- a. Failing to inform both current and prospective customers that system installation would not occur within 4 months of signing; and
- b. Offering large pricing discounts for up-front cash deposits in an attempt to keep the failing business afloat.

103. The MCC provides that any person who violates “any of the provisions of Section 4-276-470 shall be fined not less than \$50.00 nor more than \$2,000.00 for each offense.” MCC § 4-276-480. The City is therefore entitled to fines for each violation of MCC § 4-276-470.

104. WHEREFORE, the City respectfully requests that this Court enter an order (a) awarding judgment in the City’s favor on Count 2; (b) assessing Defendants a fine for each violation of MCC § 4-276-470, in the amount of \$2,000 for each day such violation has existed and continues to exist; and (c) awarding such other relief as the Court deems reasonable and just.

JURY DEMAND

Chicago requests a trial by jury of all claims.

Dated: May 10, 2023

John L. Hendricks
Acting Corporation Counsel of the City of Chicago

By: /s/ Lucy A. Prather

Lucy A Prather (lucy.prather@cityofchicago.org)
Stephen J. Kane (stephen.kane@cityofchicago.org)
City of Chicago Department of Law
Affirmative Litigation Division
121 North LaSalle Street, Room 600
Chicago, Illinois 60602
Tel: 312-744-6934