



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

IN THE MATTER OF:

AG Case No.: L18-3-1215

BONITA SPRINGS FLOOR COVERING, INC.,  
BONITA SPRINGS FLOOR COVERING &  
REMODELING, LLC, and CHRISTOPHER PASCALE,

Respondents.

ASSURANCE OF VOLUNTARY COMPLIANCE

1. PURSUANT TO the provisions of Florida's Deceptive and Unfair Trade Practices Act, Chapter 501, Part II of the Florida Statutes ("FDUTPA"), the OFFICE OF THE ATTORNEY GENERAL, STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS (hereinafter referred to as the "Attorney General"), caused an investigation to be made into certain acts and practices of Bonita Springs Floor Covering, Inc., a Florida Corporation, Bonita Springs Floor Covering & Remodeling, LLC, a Florida Limited Liability Company, and CHRISTOPHER PASCALE (collectively hereinafter, "Respondents").

2. Respondent Bonita Springs Floor Covering, Inc. is a Florida corporation with its principal place of business registered as 3431 Bonita Beach Road, Suite 201, Bonita Springs, FL 34134.

3. Respondent Bonita Springs Floor Covering & Remodeling (together with Bonita Springs Floor Covering, Inc., "Bonita Springs") is a Florida limited liability company with its

principal place of business registered as 3431 Bonita Beach Road, Suite 201, Bonita Springs, FL 34134.

4. Respondent Christopher Pascale (“Pascale”) is an individual residing at 3638 Zion Park Court, Naples, FL, and is a Manager and Vice President of Bonita Springs.

5. Respondents are prepared to enter into this Assurance of Voluntary Compliance (hereinafter referred to as the “AVC”) without an admission that Respondents violated FDUTPA or any other law and solely for the purpose of resolution of this matter with the Attorney General.

6. The Attorney General has investigated Respondents’ business practices pursuant to the provisions of Section 501.204, Florida Statutes, which prohibits unfair or deceptive acts or practices in the conduct of any trade or commerce.

7. Pursuant to Section 501.207(6), Florida Statutes, the Attorney General agrees to accept this AVC in termination of its investigation as to Respondents solely as to the acts and practices that were the subject of the investigation.

#### I. STIPULATED DEFINITIONS AND FACTS

8. “Consumer” means an individual; child, by and through its parent or legal guardian; business; firm; association; joint venture; partnership; estate; trust; business trust; syndicate; fiduciary; corporation; any commercial entity, however denominated; or any other group or combination.

9. “Clear and Conspicuous” (including “Clearly and Conspicuously”) means that a statement is made in a manner readily noticeable and understandable. To determine whether a statement is Clear and Conspicuous, factors to consider include:

- a. whether it is of sufficient prominence in terms of sound and speed, font, size, placement, color, contrast, and duration of appearance, as compared with accompanying statements, claims, terms, or representations, so that it is readily noticeable, understandable, and likely to be heard or understood by an ordinary

consumer; and if written or conveyed electronically, the terms are not buried on the back or bottom, or in unrelated information or placed on a portion of the page that an ordinary consumer would not think contained significant information;

- b. whether it is located sufficiently near any other statement that it clarifies, modifies, or explains, or that clarifies, modifies, or explains it;
  - c. whether it is presented in a coherent and meaningful sequence with respect to other terms, representations claims or statements being conveyed;
  - d. whether it contradicts, or renders confusing or ambiguous, any other statement, or appears to be inconsistent with any other statement;
  - e. whether, if it is oral, it is at an understandable pace, tone and volume as the sales offer, or, if not oral, it appears for a duration sufficient to allow viewers to have a reasonable opportunity to notice or read, and is free of distractions that compete for the attention of the consumer;
  - f. whether it is presented in such a way as to be free of distractions, including but not limited to sound, graphics, text or other offers that compete for the attention of the consumer; and
  - g. whether, in advertising on the Internet, it is made on the same page as any other term, statement, claim or representation that it modifies, and either above the fold or Clearly and Conspicuously referenced or linked to a location below the fold.
10. The Attorney General and Respondents hereby agree and stipulate to the following:

a. Beginning in at least 1998, Respondents have engaged in the business of selling and installing cabinets, flooring and flooring materials to consumers in Florida and elsewhere.

b. The Attorney General has investigated allegations that Respondents failed to deliver and install cabinet and flooring materials and failed to begin and/or complete work that had been paid for by consumers.

11. This AVC is based upon the stipulated facts set forth herein. The Attorney General shall not be estopped from taking further action in this matter should the facts described herein be shown to be incorrect or incomplete in any material way or should this AVC not be complied with

in full by Respondents. The parties agree that this AVC has been entered into based upon the truthfulness of the information provided by Respondents.

## II. INJUNCTIVE TERMS

12. Respondents, including their owners, officers, directors, representatives, agents, employees, successors, assigns, independent contractors or any other person or entity who acts under, by, through, or on behalf of Respondents, directly or indirectly, or through any corporate or other device, shall:

- a. Permanently refrain from making false or misleading representations to consumers in the conduct of any trade or commerce, including but not limited to the sale and installation of cabinets and flooring, in violation of the provisions of FDUTPA;
- b. Refrain from taking deposits or payments of any kind from consumers unless Respondents have the present ability to fulfill and complete the goods and/or services ordered;
- c. Ensure that all material terms and conditions of a transaction are Clearly and Conspicuously disclosed to each consumer before obtaining the consumer's billing information and/or charging the consumer's credit card, debit card, bank account, or other financial account;
- d. Provide Clear and Conspicuous written disclosures of all material terms in all contracts, agreements, advertising, and sales of cabinets and flooring materials and installation services, and any related items to consumers, and honor all advertised and contracted prices and terms in accordance with such disclosures;
- e. Provide accurate, truthful and non-misleading Clear and Conspicuous written disclosures regarding estimated delivery and installation times, and abide by such representations;
- f. Ensure that any and all disclaimers and policies, including, but not limited to Respondents' refund and cancellation policies, are Clear and Conspicuous, provided on the same page and above any solicitations for consent and/or payment, and provided prior to accepting any payment, and honor all policies in accordance with their terms;
- g. Provide training programs to all relevant Respondents' employees, including, but not limited to, training regarding Clear and Conspicuous terms, conditions, disclosures, and policies (e.g. refund policy, cancellation policy, etc...); ensure that customer service representatives' oral representations are consistent with Respondents' written terms, conditions, disclosures, and policies; and prohibit

misrepresentations to consumers inconsistent with the terms and conditions of this AVC;

- h. Ensure that any and all businesses owned and/or operated by Respondents and conducting or transacting business within the State of Florida have a Registered Agent and Registered Office in compliance with Florida Statutes; and
- i. To the extent applicable, comply with all Florida laws, regulations and licensing requirements pertaining to contracting services, including but not limited to Chapter 489, Florida Statutes.

### III. EQUITABLE RESTITUTION

13. The Respondents represent and warrant that since they became aware of the Attorney General's investigation on or about April 19, 2019, the Respondents refunded or otherwise resolved consumer complaints totaling approximately \$55,242.50 in claimed losses. The remaining restitution outstanding from pending consumer complaints is Thirty-Eight Thousand Three Hundred Fifty Dollars and No Cents (\$38,350.00) ("Restitution Amount"), not including amounts agreed to be repaid by Respondents to specific individual consumers per separate agreements.

14. In addition to honoring all existing, pending agreements to repay specific consumers, Respondents shall pay Two Thousand Five Hundred Dollars and No Cents (\$2,500.00), on or prior to the Effective Date of this AVC, towards the Restitution Amount via wire transfer or certified check made payable to the **Department of Legal Affairs**, and the remaining Thirty-Five Thousand Eight Hundred Fifty Dollars and No Cents (\$35,850.00) within twenty-four (24) months of the Effective Date of this AVC ("Payment Period") in monthly installments of \$1,493.75 each, with each monthly payment due on the first of each month after the Effective Date of this AVC, with a five (5) day grace period, until the full Restitution Amount is paid in full. Respondents may pay the amounts due in full at any time during the Payment Period.

15. Payments shall be sent to Genevieve Bonan, Assistant Attorney General, Office of the Attorney General, Consumer Protection Division, **1515 North Flagler Drive, Suite 900, West Palm Beach, FL 33401.**

16. The Restitution Amount will be distributed pro-rata among those consumers who filed complaints against Respondents and who have not received a full refund from Respondents or entered into a separate agreement with Respondents. The manner in which the Restitution Amount is to be distributed shall be within the sole discretion of the Attorney General. In the sole judgment of the Attorney General, if any restitution monies remain after distribution, or the Attorney General is unable to locate consumers for restitution or determines that restitution is not practical, any remaining restitution monies will revert to the Department of Legal Affairs and they shall be used to defray the costs of restitution distribution and any attorney's fees and costs incurred in enforcing this AVC, or as fees and costs associated with ongoing and future enforcement initiatives pursuant to FDUTPA.

17. In addition, Respondents shall refund any other consumer who files a complaint regarding Respondents with the Attorney General within 90 days of the Effective Date of this AVC. Upon the conclusion of 90 days following the Effective Date of this AVC, the Attorney General shall provide Respondents with a list of consumers who submitted complaints or affidavits within 90 days of the Effective Date of this AVC and the amounts due to each consumer, and Respondents shall provide refunds within 30 days of receipt of said list. To the extent Respondents object to the listed refunds due additional consumers who file timely complaints, such consumers shall be refunded absent sufficient documentation provided by Respondents to establish to the Attorney General's reasonable satisfaction that Respondents made full and timely payment of all appropriate amounts due to such consumers.

18. Within 10 days of payment of the refunds required in Paragraph 17, Respondents shall provide the Attorney General with a sworn affidavit certifying the Respondents' compliance with the obligations set forth in Paragraph 17 and provide documentation substantiating said payments.

#### IV. ATTORNEY'S FEES AND COSTS

19. Due to their inability to pay the full attorney's fees and costs, and in consideration of the Respondents' entry into this AVC, Respondents shall pay One Thousand Dollars and No Cents (\$1,000.00) to the Attorney General pursuant to Section 501.2105, Florida Statutes, in payment of attorney's fees, costs and investigative fees regarding this investigation and future investigative fees and costs ("Fee Amount"). All payments shall be made by wire transfer, cashier's check or other certified funds payable to the **Department of Legal Affairs**.

20. The payment shall be submitted simultaneously with the submission of Respondents' partially executed copy of this AVC to the attention of Assistant Attorney General Genevieve Bonan, Office of Attorney General, Consumer Protection Division, 1515 North Flagler Drive, Suite 900, West Palm Beach, FL 33401

#### V. CIVIL PENALTIES

21. Subject to and contingent upon Respondents' full, complete and timely compliance with the terms of this AVC, the Attorney General is suspending pursuant to this settlement and in consideration of the Respondents' performance hereunder the civil penalties that would otherwise be due for the acts and practices at issue under Sections 501.2075 or 501.2077, Florida Statutes, of up to \$15,000 per violation in consideration of the parties' entry into this AVC. The total civil penalty liability that would otherwise be due, but for Respondents' full and complete compliance with this AVC, is stipulated to be at least \$260,000 (the "Penalty Amount").

**VI. FUTURE VIOLATIONS**

22. It is hereby agreed by the parties that any failure to comply with the terms and conditions of this AVC by Respondents is prima facie evidence of a violation of FDUTPA, and will subject Respondents to any and all civil penalties and sanctions authorized by law, including attorney's fees and costs. In the event that a court of competent jurisdiction makes a determination that a violation of any condition of this AVC has occurred, then the suspension of penalties shall be lifted Respondents shall be liable for a consent judgment against Respondents in the Penalty Amount of Two Hundred Sixty Thousand Dollars (\$260,000.00), as well as attorney's fees and costs incurred in enforcing this AVC and any other legal or equitable relief as the court may determine appropriate.

**VII. COMPLIANCE**

23. For a period of two (2) years from the effective date of this AVC, for the purpose of further determining compliance with this AVC, Respondents shall permit representatives of the Attorney General access during normal business hours to any office, warehouse, retail location, or facility storing documents, of Respondents. In providing such access, Respondents shall permit representatives of the Attorney General to inspect and copy all documents relevant to any matter contained in this AVC, and to interview or depose the officers, directors, and employees, including all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, concerning matters relating to compliance with the terms of this AVC. The person interviewed or deposed may have counsel present. Nothing in this AVC limits the Attorney General's lawful use of its compulsory process, pursuant to Section 501.206, Florida Statutes, to obtain any documentary, material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices



(within the meaning of Section 501.203-501.204, Florida Statutes), or other means available under Florida law, including, but not limited to, posing through its representatives as consumers or suppliers without the necessity of identification.

24. Respondents shall preserve and retain all relevant business and financial records relating to the acts and practices at issue in this AVC and other information reasonably sufficient to establish compliance with the provisions of this AVC for two (2) years from the date of this AVC, and shall provide reasonable access to such documents and information to the Attorney General upon request.

25. For a period of five (5) years from the date of this Agreement, Respondents shall notify the Attorney General at least thirty (30) days prior to creating, operating, or exercising any control over any business entity or organization in Florida, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, corporation or unincorporated entity. Said notification shall include a written statement disclosing: (1) the name, address and telephone number of the business entity; (2) the names of the business entity's officers, directors, principals, managers, and employees; and (3) a detailed description of the business entity's intended activities

26. Future complaints received by the Attorney General may be forwarded to Respondents to the attention of Christopher Pascale at 3901 Bonita Beach Road, Bonita Springs, FL 34134, or another agent designated by Respondents whose contact information shall be provided to the Attorney General for future correspondence. For all complaints forwarded to Respondents from the Attorney General, Respondents shall provide a written response to the Attorney General within fifteen (15) days detailing the nature of the complaint, Respondents' response to the complaint and any actions taken to cure and/or resolve the complaint. Any actions

taken by the Attorney General with regard to future complaints shall not be construed as a waiver of the Attorney General's remedies under this AVC or approval of Respondents' actions and/or resolution of such complaints.

27. Respondents shall not effect any change in the form of doing business or the organizational identity of any of the existing business entities or create any new business entities as a method of avoiding the obligations and terms and conditions set forth in this AVC.

28. Respondents shall make the terms and conditions of this AVC known to any managers, members, officers, owners, directors, employees, agents, independent contractors, successors and assigns or anyone else acting for or on behalf of Respondents.

#### **VIII. CUSTOMER RECORDS**

29. Any personal or financial information of consumers in the custody, control or possession of Respondents shall be securely stored in such a manner as to reasonably protect against inadvertent disclosure of consumer information. Respondents, including any managers, members, officers, owners, directors, employees, agents, independent contractors, successors and assigns, shall not, directly or indirectly, market, sell, share or otherwise disclose the name, contact information, or financial information of any consumer in the care, custody or control of Respondents.

#### **IX. EFFECTIVE DATE**

30. The Effective Date of this AVC shall be the date of its execution and delivery by the Attorney General (the "Effective Date"). Acceptance by the Attorney General shall be established by the signature of the Division Director.

31. The receipt by the Attorney General of any monies pursuant to the AVC does not constitute acceptance by the Attorney General, and any monies received shall be returned to Respondents if this AVC is not accepted and fully executed by the Attorney General.

**X. SCOPE OF AGREEMENT AND RELEASES**

32. This AVC does not constitute an approval by the Attorney General of any of Respondents' business practices. Respondents shall not represent directly or indirectly, or in any way whatsoever, that the Attorney General has sanctioned, condoned or approved of any part or aspect of Respondents' business practices.

33. This AVC is the final, complete, and exclusive statement of the parties' agreement on the matters contained in this AVC, and it supersedes all previous negotiations and agreements. Other than any representation expressly stated in this AVC, the parties have not made any promises, representations or warranties to each other, and neither party's decision to enter into this AVC is based upon any statements by the other party outside of those in this AVC.

34. The Respondents agree that no promises of any kind or nature whatsoever, other than the written terms of this AVC, were made to induce the Respondents into entering into this AVC.

35. This AVC may be amended only by written agreement between the Parties, subject to any further requirements under state law.

36. Nothing in this AVC is to be construed as a waiver of any private rights of any person or release of any private rights, causes of action, or remedies of any person against Respondents or any other person or entity, and nothing herein shall be construed to impair, compromise or affect any right of any government agency other than the Attorney General except as expressly limited herein.

37. It is further agreed that the parties jointly participated in the negotiation of the terms of this AVC. No provision of this AVC shall be construed for or against any party on the grounds that one party had more control over establishing the terms of this AVC than another.

38. Respondents expressly acknowledge that they had, or had the opportunity to obtain, the advice and counsel of an independent attorney of their choosing to assist in the negotiation and preparation of this AVC. Respondents have read this agreement, are aware of its terms, have voluntarily executed it, and acknowledge that to the extent they have waived any rights or defenses by entry into this AVC, such waiver was made voluntarily and with full knowledge of the ramifications of such waiver.

39. Respondents agree that they release and forever discharge the Office of the Attorney General (including any of its past, present or future administrators, employees, officers, attorneys, agents, representatives, officials acting in their official capacities, agencies, departments, commissions, and divisions) from any and all manner of civil claims, demands, actions, suits and causes of action, damages whenever incurred, liabilities of any nature whatsoever, whether known or unknown, accrued or unaccrued, legal, equitable or statutory, arising out of or in any way related to, in whole or in part, the subject matter of the litigation of this lawsuit.

40. This AVC shall be governed by the laws of the State of Florida.

41. The obligations imposed under this AVC are continuing in nature and shall apply to and be binding upon Respondents and their successors and assigns, whether acting through their principals, officers, owners, managers, members, directors, shareholders, representatives, employees, agents, independent contractors, successors and assigns, or acting through any limited

liability company, corporation or other business entity whose acts, practices or policies are directed, formulated, or controlled by Respondents.

**XI. MISCELLANEOUS**

42. It is further agreed that facsimile copies of signatures and notary seals may be accepted as original for the purpose of establishing the existence of this agreement, and this AVC may be executed in counterparts the compilation of which shall constitute the full and final agreement.

43. Notice to any of the parties to this AVC as may be required shall be made by certified mail and email at the addresses set forth below unless any party notifies the other parties in writing of another address to which notices should be provided.

To Respondents:

Bonita Springs Floor Covering Inc.  
c/o Landon Miller, Esq.  
2335 Stanford Court, Suite 502  
Naples, FL 34112

To the Attorney General:

Brent Hoosac, Financial Investigator  
Consumer Protection Division  
Office of the Attorney General  
1515 North Flagler Drive, Suite 900  
West Palm Beach, FL 33401

44. It is a condition of each of the Attorney General's obligations under this AVC that the Respondents have fully and timely performed all of Respondents' obligations previously due under this AVC.

45. If any term of this AVC is to any extent unenforceable, invalid or illegal, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall remain in full force and effect; and, to the extent permitted and possible, the invalid or

unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term.

46. By my signature, I hereby affirm that I have authority to execute this AVC on behalf of the party indicated and, to the extent I am acting in a representative capacity, I am acting within the scope of my authority as corporate representative, and that by my signature I am binding the party/parties indicated to the terms and conditions of this AVC.

**SIGNATURES ON FOLLOWING PAGES**

Bonita Springs Floor Covering, Inc.


Agreed to:

By:   
CHRISTOPHER PASCALE

STATE OF FLORIDA  
COUNTY OF ~~LEE~~ COLLIER )

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, CHRISTOPHER PASCALE personally appeared as OWNER/MANAGER of BONITA SPRINGS FLOOR COVERING, INC. He acknowledged before me that he executed the foregoing instrument for the purposes therein stated on the 10 day of JAN, 2020.

Subscribed to before me this 10<sup>th</sup> day of JAN, 2020.

  
NOTARY PUBLIC


JANET L. MILIOTI  
(print, type, or stamp commissioned Notary Public)



Janet L. Milioti  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# GG301455  
Expires 5/7/2020

Personally known  or Produced Identification  (check one)

Type of Identification Produced: \_\_\_\_\_

**Witnessed:**   
Landon P. Miller, Esq.  
MANGONE & MILLER LAW OFFICES  
2335 Stanford Court  
Suite 502  
Naples, Florida 34112  
(239) 774-4100 telephone  
*Counsel for Respondents*

BONITA SPRINGS FLOOR COVERING & REMODELING, LLC

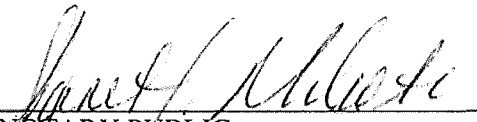
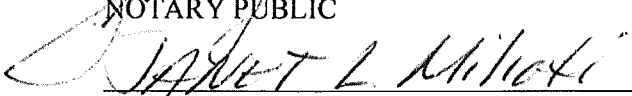
**Agreed to:**

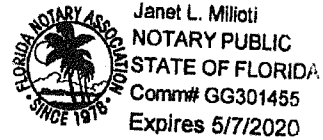
By:   
CHRISTOPHER PASCALE

STATE OF FLORIDA )  
COUNTY OF LEE Collier )

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, CHRISTOPHER PASCALE personally appeared as BONITA SPRINGS FLOOR COVERING & REMODELING, LLC. He acknowledged before me that he executed the foregoing instrument for the purposes therein stated on the 10<sup>th</sup> day of JAN, 2020.

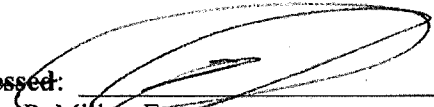
Subscribed to before me this 10<sup>th</sup> day of JAN, 2020.

  
NOTARY PUBLIC  
  
(print, type, or stamp commissioned Notary Public)



Personally known  or Produced Identification \_\_\_\_\_ (check one)


Type of Identification Produced: \_\_\_\_\_

**Witnessed:**   
Landon P. Miller, Esq.  
MANGONE & MILLER LAW OFFICES  
2335 Stanford Court  
Suite 502  
Naples, Florida 34112  
(239) 774-4100 telephone  
*Counsel for Respondents*



**CHRISTOPHER PASCALE, INDIVIDUALLY**

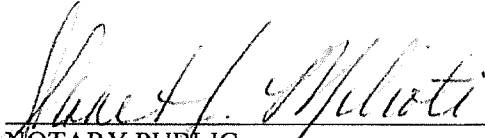
**Agreed to:**

By:   
CHRISTOPHER PASCALE, Individually

STATE OF FLORIDA )  
COUNTY OF LEE Collier )

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, CHRISTOPHER PASCALE personally appeared. He acknowledged before me that he executed the foregoing instrument for the purposes therein stated on the 10 day of JAN, 2020.

Subscribed to before me this 10<sup>th</sup> day of JAN, 2020.

  
NOTARY PUBLIC



Janet L. Milioti  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# GG301455  
Expires 5/7/2020

Janet L. Milioti  
(print, type, or stamp commissioned Notary Public)

Personally known  or Produced Identification \_\_\_\_\_ (check one)

Type of Identification Produced: \_\_\_\_\_

OFFICE OF THE ATTORNEY GENERAL

By: Sarah L. Shullman

Sarah Shullman  
South Florida Bureau Chief  
Office of the Attorney General  
State of Florida  
Department of Legal Affairs  
Fla. Bar Number 888451  
1515 North Flagler Drive, Suite 900  
West Palm Beach, FL 33401

Dated: 1/14/2020

By: Victoria Butler

Victoria Butler  
Director, Consumer Protection Division  
Office of the Attorney General  
State of Florida  
Department of Legal Affairs  
3507 Frontage Rd, Suite 325  
Tampa, FL 32399

Dated: 3/10/2020