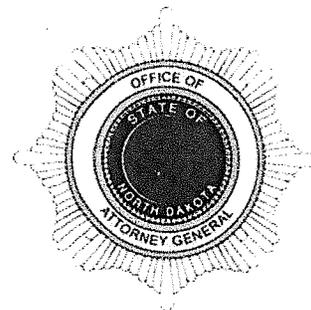




OFFICE OF ATTORNEY GENERAL  
 CONSUMER PROTECTION AND ANTITRUST DIVISION  
 GATEWAY PROFESSIONAL CENTER  
 1050 E INTERSTATE AVENUE, STE 200  
 BISMARCK, NORTH DAKOTA 58503-5574



701-328-5570 (Telephone)  
 701-328-5568 (Facsimile)

STATE OF NORTH DAKOTA  
 OFFICE OF ATTORNEY GENERAL

STATE OF NORTH DAKOTA EX REL.  
 WAYNE STENEHJEM,  
 ATTORNEY GENERAL,

Petitioner,

**CEASE AND DESIST ORDER,  
 NOTICE OF CIVIL PENALTY  
 AND NOTICE OF RIGHT  
 TO REQUEST A HEARING**

-vs-

**DIRECT RECOVERY SERVICE, INC.  
 SHAWNA SUE MURPHY  
 BEN THOMPSON, and  
 RIA JONES,  
 DBA DIRECT RECOVERY SERVICES  
 DBA BUSINESS SUPPLY & SERVICE  
 DBA BUSINESS SUPPLY SHIPPING  
 CENTER  
 DBA BUSINESS SUPPLY SERVICES  
 CENTER  
 FDBA SOUTHLAND BUSINESS  
 SERVICES**

Respondents.

CPAT 130157.002

**To the individual and entity identified below hereinafter "Respondents"):**

**DIRECT RECOVERY SERVICES, INC  
 C/O WYOMING CORPORATE SERVICES INC  
 1712 PIONEER AVENUE STE 101  
 CHEYENNE WY 82001-4406**

**DIRECT RECOVERY SERVICES  
 PO BOX 25872  
 ANAHEIM CA 92825-5872**

SHAWNA MURPHY  
960 N TUSTIN STREET STE 175  
ORANGE, CA 92867-5956

BEN THOMPSON  
PO BOX 25872  
ANAHEIM CA 92825-5872

RIA JONES  
PO BOX 25872  
ANAHEIM CA 92825-5872

(including all of those entities' officers, directors, owners, agents, servants, employees and representatives as well as all other persons in active concert or participation with them, extending to all "doing business as" names, formal corporate names, fictitious names of any kind or any variations of the same)

## **BACKGROUND**

1. The Attorney General of North Dakota has a reasonable basis to believe Respondents have engaged in and are engaging in acts or practices declared unlawful by N.D.C.C. ch. 51-15, commonly referred to as the "Consumer Fraud Law." Respondents have refused or failed to respond to the Attorney General's Civil Investigative Demand, issued to Respondents pursuant to N.D.C.C. § 51-15-04. It is necessary and appropriate in the public interest and for the protection of consumers to restrain the Respondents' unlawful acts or practices.

2. Respondents have been the subject of North Dakota consumer complaints alleging violations of North Dakota's Consumer Fraud Law. The Attorney General has received information indicating that Respondents have engaged in a practice that is commonly referred to as an "office supply scam," and that Respondents have made untrue, deceptive and misleading representations, and have engaged in deceptive acts or

practices, fraud, false pretenses, false promises or misrepresentations with the intent that others rely thereon, in violation of N.D.C.C. ch. 51-15, the Consumer Fraud Law.

3. Respondent Direct Recovery Services, Inc. is a Wyoming Corporation with a principal office at 1712 Pioneer Ave, Cheyenne, Wyoming 82001. Direct Recovery Services, Inc. is not registered with the North Dakota Secretary of State.

4. The Wyoming registered agent for Direct Recovery Services, Inc. is Wyoming Corporate Services, Inc. of 1712 Pioneer Ave, Ste 101, Cheyenne, Wyoming 82001. Direct Recovery Services, Inc. uses an address at 960 N Tustin St, Ste 175, Orange, California 92867.

5. Respondent Ben Thompson is an officer of Direct Recovery Services and uses the address of P.O. Box 25872 in Anaheim, California 92825-5872. Mr. Thompson appears to run the daily business of the company, and claims to work in the legal litigation department for Direct Recovery. Mr. Thompson represents the company as a national firm of attorney investors who purchase qualified business-to-business delinquent debt and pursue it to payment. However, Mr. Thompson has refused to provide the legal name of his company and identify its officers.

5. Respondent Ria Jones is an employee or officer of Direct Recovery Services, Inc. and identifies herself as the Collection Case Manager. Ms. Jones has made phone calls and sent emails to North Dakota persons in attempt to collect payment for merchandise allegedly ordered, sold or delivered.

6. Respondent Shawna Sue Murphy is an officer of Direct Recovery Services, Inc. and opened a bank account used by Direct Recovery Services, Inc. to deposit payment received from North Dakota persons. In the bank documents, Ms.

Murphy identifies herself as the President and Secretary of Business Recovery Services, Inc.

7. Respondents also do business as, or claim to do business on behalf of, Business Supply Services Center, Business Supply Shipping Center and Business Supply & Service. It is believed that Respondents previously have done business under the name Southland Business Services.

8. Direct Recovery Services, Inc., Ben Thompson, Ria Jones and Shawna Sue Murphy doing business as Direct Recovery Services, Business Supply & Service, Business Supply Shipping Center and Business Supply Service Center, formerly doing business as Southland Business Services ("Respondents"), are or were engaged in the advertising, solicitation, shipping, sale, or collection of payment for sale of merchandise, including toner cartridges and other office supplies.

9. The Attorney General has received a consumer complaint and other information alleging that Respondents have engaged in deceptive acts or practices, fraud, false pretenses, false promises or misrepresentations in connection with the sale and shipment of merchandise and the collection of payment for merchandise. It is alleged that Respondents ship, or allege to have shipped, merchandise that was never ordered, wanted, or received, and that Respondents attempt to collect on debts that are not owed or agreed upon by the person whom they attempt to collect payment. It is further believed that Respondents have made false statements and misrepresentations regarding proof of delivery and proof of orders placed in order to induce payment, and that Respondents have made false statements in form of threats of legal action, which Respondents have no

intention of bringing, in attempt to induce payment of alleged outstanding balances for merchandise that were never ordered, wanted or received.

10. The Attorney General has received information indicating that Respondents have made misrepresentations regarding outstanding balanced owed for merchandise, including statements that an outstanding balance exists for an invoice that was never paid. It appears that if the person pays the invoice to resolve the matter or to make the company stop calling, Respondents will contact the person again, claiming there are additional invoices outstanding, in order to obtain additional payments.

11. N.D.C.C. ch. 51-15 prohibits a person from engaging in any deceptive act or practice, fraud, false pretense, false promise, or misrepresentation, with the intent that others rely thereon in connection with the sale or advertisement of any merchandise. "Merchandise" is defined as any objects, wares, goods, commodities, intangibles, real estate, charitable contributions, or services. N.D.C.C. § 51-15-01(3).

12. Based on the consumer complaint and other information received, it appears to the Attorney General that Respondents have made untrue, deceptive and misleading representations, and/or have made or engaged in deceptive acts or practices, fraud, false pretenses, false promises or misrepresentations with the intent that others rely thereon, in violation of N.D.C.C. ch. 51-15, the Consumer Fraud Law.

13. The deceptive acts or practices include (1) making untrue, deceptive and misleading representations regarding merchandise ordered, shipped or sold, (2) making untrue, deceptive and misleading representations regarding outstanding invoices for merchandise ordered, shipped or sold, (3) making false statements and threats regarding legal actions Respondents never intend to commence or pursue, and (4)

expressly, impliedly, or by omission of a material fact, misrepresenting their identity, the nature of their business and their business practices, and their alleged claims against North Dakota persons.

14. After receiving the consumer complaint and other information indicating that Respondents may be or may have been engaged in business activities in violation of North Dakota law, the Attorney General's Consumer Protection Division issued a Civil Investigative Demand to Ben Thompson and Business Recovery Services on June 5, 2013, pursuant to N.D.C.C. § 51-15-04. The Civil Investigative Demand was sent to Ben Thompson and Business Recovery Services via first class mail and via certified mail on June 5, 2013, and was also sent to Ben Thompson via electronic mail to legal.directrecovery@gmail.com on June 5, 2013. This Civil Investigative Demand required Ben Thompson and Business Recovery Services to provide to the Attorney General certain information and documentation requested by June 28, 2013. No response was received to the Civil Investigative Demand.

15. After receiving information received from Bank of America pursuant to a Subpoena for bank records on the bank account used by Respondents, which identified the owner of the account as Direct Recovery Services, Inc., registered in Wyoming, and further identified Shawna Sue Murphy as the President and Secretary, another Civil Investigative Demand was issued to Direct Recovery Services, Inc. on June 13, 2013, pursuant to N.D.C.C. § 51-15-04. This Civil Investigative Demand was sent to Direct Recovery Services, Inc. through its registered agent, Wyoming Corporate Services, Inc. and to its President Shawna Sue Murphy via certified mail on June 13, 2013. This Civil Investigative Demand required Direct Recovery Services, Inc. to provide to the Attorney

General certain information and documentation requested by July 8, 2013. No response was received to the Civil Investigative Demand.

16. Respondents did not comply with the Attorney General's Civil Investigative Demand and, pursuant to N.D.C.C. § 51-15-07, the Attorney General may issue a cease and desist order for the Respondents' failure or refusal to file a statement or report under N.D.C.C. ch. 51-15. Respondents who are officers of a corporation are responsible for responding to a Civil Investigative Demand lawfully issued to the corporation. "[A] lawful judicial command to a corporation is in effect a command to its officers...." Child v. Washed Sand & Gravel Co., 233 N.W. 586, 562 (Minn. 1930); See also Fargo Women's Health Organization, Inc. v. Larson, 391 N.W.2d 627, 633 (N.D. 1986)(an officer or agent of a corporation may be found in contempt of court if that officer or agent was responsible for the acts or inaction of the corporation that constituted the contempt).

17. Each of the Respondents is engaged in a combination of two or more persons who have agreed to act together to inflict a wrong or an injury upon another, or who have agreed to act together to commit a lawful act using unlawful means to inflict a wrong or injury upon another, namely violation of N.D.C.C. ch. 51-15. In doing so, Respondents have committed acts in pursuit of an agreement and the agreement has proximately caused damage to North Dakota residents.

18. Respondents are liable for their own misconduct and/or for directing others to engage in misconduct. *See e.g. Zimprich v. North Dakota Harvestore Sys., Inc.*, 419 N.W.2d 912, 914 (N.D. 1988); *Rickbeil v. Grafton Deaconess Hosp.*, 23 N.W.2d 247, 257 (N.D. 1946)("The general rule with reference to this feature is

considered and set out in the great series of volumes of jurisprudence familiar to the courts. In 52 Am. Jur., 440, this rule is stated, 'It is a conceded general rule that all persons or entities are liable for torts committed by them, or by their agents while acting within the scope of their duties.'").

19. Respondents who are natural persons will additionally be subject to personal liability for corporate misconduct. *Hilzendager v. Skwarok*, 335 N.W.2d 768 (N.D. 1983)(quoting *Schriock v. Schriock*, 128 N.W.2d 852, 866 (N.D. 1964)("... but, when the notion of legal entity is used to defeat public convenience, justify wrong, protect fraud, or defend crime, the law will regard the corporation as an association of persons.' Fletcher, Private Corporations Sec. 41 (1963 rev. vol.)"). The crime/fraud exception to the protections of corporate form has long been recognized in North Dakota, "neither law nor equity will ever recognize the right of a corporate entity to become the receptacle or cover for fraud or wrong based on deception for the purpose of defeating the right of innocent parties." *McFadden v. Jenkins*, 169 N.W. 151, 163 (N.D. 1918). See also *Danks v. Holland*, 246 N.W.2d 86 (N.D. 1976); *Family Center Drug v. North Dakota St. Bd. of Pharm.*, 181 N.W.2d 738, 745 (N.D. 1970).

### ORDER

Based upon the foregoing information, it appears to the Attorney General that Respondents have engaged in violations of N.D.C.C. ch. 51-15, and that Respondents have failed or refused to respond to the Civil Investigative Demand as required by N.D.C.C. § 51-15-04; **NOW, THEREFORE, IT IS ORDERED** pursuant to N.D.C.C. § 51-15-07 that Respondents, individually, and where applicable their officers, directors, owners, agents, servants, employees, contractors, representatives (extending to all

"doing business as" names, formal corporate names, aliases, fictitious names of any kind or any variations of the same) as well as all other persons in active concert or participation with them, whether directly or indirectly, immediately **CEASE AND DESIST** from: 1) advertising, soliciting or selling merchandise to North Dakota persons; 2) collecting, attempting to collect, or contacting Dakota persons regarding collection of payment for merchandise allegedly ordered, shipped or sold; and 3) engaging in any deceptive act or practice, fraud, false pretense, false promise, or misrepresentation, with the intent that others rely thereon in connection with the sale or advertisement of any merchandise, in violation of N.D.C.C. ch. 51-15. Respondents also shall immediately **CEASE AND DESIST** from taking, collecting, charging, billing or accepting any payment from any North Dakota person, including, but not limited to, cash, check, direct credit, debits or withdrawals from North Dakota person's credit cards, debit cards or bank accounts for any alleged past or future ordered, delivery or sale of merchandise.

**YOU ARE NOTIFIED** that pursuant to N.D.C.C. § 12.1-09-03 a person is guilty of a criminal offense if he or she intentionally "alters, destroys, mutilates, conceals, or removes a record, document, or thing with intent to impair its verity or availability" in an official proceeding. As such, intentional destruction of any documents related to this matter may result in criminal prosecution.

## NOTICE OF CIVIL PENALTIES

**YOU ARE FURTHER NOTIFIED** that pursuant to N.D.C.C. § 51-15-07 any violation of this Cease and Desist Order is subject to civil penalties not to exceed \$1,000 per violation. Any violation of this Order that also is a violation of N.D.C.C. ch. 51-15 may result in additional civil penalties of not more than \$5,000 per violation. Nothing in this Order is intended to limit or waive any rights and remedies available to the State of North Dakota or consumers.

## NOTICE OF RIGHT TO REQUEST HEARING

**YOU ARE NOTIFIED** that pursuant to N.D.C.C. § 51-15-07 you may request a hearing before the Attorney General if such a request is made in writing WITHIN TEN (10) DAYS AFTER THE RECEIPT OF THIS ORDER. Respondents have the right to be represented by legal counsel at the hearing.

Dated this 17<sup>th</sup> day of September, 2013.

### STATE OF NORTH DAKOTA

Wayne Stenehjem  
Attorney General

BY:



Parrell D. Grossman, ID No. 04684  
Assistant Attorney General  
Director, Consumer Protection and  
Antitrust Division  
Office of Attorney General  
Gateway Professional Center  
1050 East Interstate Avenue Ste. 200  
Bismarck, ND 58503-5574  
(701) 328-3404

STATE OF NORTH DAKOTA  
OFFICE OF ATTORNEY GENERAL

STATE OF NORTH DAKOTA EX REL.  
WAYNE STENEHJEM,  
ATTORNEY GENERAL,

Petitioner,

**AFFIDAVIT OF SERVICE BY  
MAIL, CERTIFIED MAIL AND  
EMAIL**

-vs-

**DIRECT RECOVERY SERVICE, INC.  
SHAWNA SUE MURPHY  
BEN THOMPSON, and  
RIA JONES,  
DBA DIRECT RECOVERY SERVICES  
DBA BUSINESS SUPPLY & SERVICE  
DBA BUSINESS SUPPLY SHIPPING  
CENTER  
DBA BUSINESS SUPPLY SERVICES  
CENTER  
FDBA SOUTHLAND BUSINESS SERVICES**

Respondents.

CPAT 130157.002

STATE OF NORTH DAKOTA     )  
  ) ss  
COUNTY OF BURLEIGH     )

Alexis Bieber states under oath as follows:

1. I swear and affirm upon penalty of perjury that the statements made in this affidavit are true and correct and made upon personal knowledge.

2. I am of legal age and on the 17<sup>th</sup> day of September, 2013, I served the CEASE AND DESIST ORDER, NOTICE OF CIVIL PENALTY AND NOTICE OF RIGHT TO REQUEST A HEARING upon the following by placing true and correct copies thereof in an envelope addressed as follows:

FIRST CLASS MAIL

WYOMING CORPORATE SERVICES INC  
1712 PIONEER AVENUE STE 101  
CHEYENNE WY 82001-4406

FIRST CLASS MAIL

DIRECT RECOVERY SERVICES  
PO BOX 25872  
ANAHEIM CA 92825-5872

FIRST CLASS MAIL

SHAWNA MURPHY  
960 N TUSTIN STREET STE 175  
ORANGE, CA 92867

FIRST CLASS MAIL

BEN THOMPSON  
PO BOX 25872  
ANAHEIM CA 92825-5872

FIRST CLASS MAIL

RIA JONES  
PO BOX 25872  
ANAHEIM CA 92825-5872

CERTIFIED MAIL RECEIPT 7011 2000 0001 3047 8389

WYOMING CORPORATE SERVICES INC  
1712 PIONEER AVENUE STE 101  
CHEYENNE WY 82001-4406

CERTIFIED MAIL RECEIPT 7011 2000 0001 3047 8396

DIRECT RECOVERY SERVICES  
PO BOX 25872  
ANAHEIM CA 92825-5872

CERTIFIED MAIL RECEIPT # 7011 2000 0001 3047 8402

SHAWNA MURPHY  
960 N TUSTIN STREET STE 175  
ORANGE, CA 92867-5956

CERTIFIED MAIL RECEIPT # 7011 2000 0001 3047 8358

BEN THOMPSON  
PO BOX 25872  
ANAHEIM CA 92825-5872

CERTIFIED MAIL RECEIPT # 7011 2000 0001 3047 8372

RIA JONES  
PO BOX 25872  
ANAHEIM CA 92825-5872

and depositing the same, with postage prepaid, in the United States mail at Bismarck, North Dakota, as first class mail and as CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

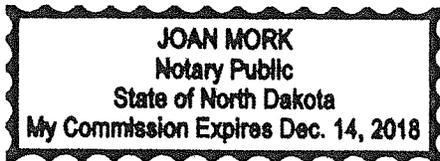
3. Also on the 17<sup>th</sup> day of September, 2013, I served CEASE AND DESIST ORDER, NOTICE OF CIVIL PENALTY AND NOTICE OF RIGHT TO REQUEST A HEARING upon Direct Recovery Services, Inc. via electronic mail by e-mailing the document to legal.directrecovery@gmail.com to the attention of Ben Thompson.

Alexis Bieber  
Alexis Bieber

Subscribed and sworn to before me  
this 17<sup>th</sup> day of September, 2013

Joan Mork  
NOTARY PUBLIC

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[News Release](#)