



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-

JEFF LAFOUNTAIN doing business as
GITTR DONE CONSTRUCTION

Respondent.

CPAT # 130238.001

.....
 To the individual and entity identified below (hereinafter "Respondent"):

Jeff Lafountain
 PO Box 662
 Dunseith, ND 58329-0662
 and
 PO Box 104
 Mohall, ND 58761-0104
 701-278-1855

(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 Respondent has engaged in or is engaging in acts or practices declared unlawful by N.D.C.C. ch. 51-15, commonly referred to as the "Consumer Fraud Law," and N.D.C.C.

ch. 43-07, commonly referred to as the "Contractors Law." It is necessary and appropriate in the public interest and for the protection of consumers to restrain the Respondent's unlawful acts or practices.

2. Respondent Jeff Lafountain, doing business as Gittr Done Construction, has engaged in advertising and soliciting the sale of merchandise, including but not limited to, contracting services to repair roofs. Respondent solicited and accepted payments from North Dakota consumers when Respondent did not have a contractor's license as required by N.D.C.C. ch. 43-07.

3. Respondent Jeff Lafountain, doing business as Gittr Done Construction, has been the subject of a North Dakota consumer complaint alleging misleading or deceptive advertising and/or fraudulent business practices in connection with the advertisement and sale of merchandise as those terms are defined in N.D.C.C. § 51-15-01. Allegations have been made that Respondent, his agents, employees, or representatives, in connection with the sale of merchandise, has made untrue, deceptive and misleading representations, and/or has made or engaged in deceptive acts or practice, 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 alleged deceptive practices include misrepresenting the quality of Respondent's workmanship and his ability to repair roofs. Additionally, Respondent expressly, impliedly, or by omission of a material fact, misrepresented to consumers that he was legally authorized to conduct contracting services in North Dakota when, in fact, Respondent did not have a contractor's license as required by N.D.C.C. ch. 43-07

4. The Attorney General has received a complaint and other information alleging that Respondent, his agents, employees, or representatives, received \$8,994 to

repair a North Dakota consumer's roof. Respondent did not have a contractor's license, as required by N.D.C.C. ch. 43-07, when Respondent solicited and accepted the down payment. Respondent failed to properly repair the consumer's roof, and the roof continued to leak. Additionally, the Attorney General has received information that Respondent has solicited and contracted for numerous other jobs, in excess of \$2,000, without being properly licensed as required by N.D.C.C. ch. 43-07.

5. Respondent has made untrue, deceptive and misleading representations, and/or has 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.

6. 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.

7. Respondent has operated as a contractor in the state of North Dakota and has accepted payment for contracting services in excess of \$2,000. Respondent is not licensed as a contractor and it appears that Respondent has engaged in sales activity in North Dakota without obtaining the required contractor's license pursuant to N.D.C.C. ch. 43-07.

8. Before issuing this Cease and Desist Order the Attorney General attempted to contact Respondent numerous times regarding resolving this matter with an Assurance of Voluntary Compliance. However, Respondent stopped communicating with the Attorney General, and a formal agreement was never executed.

9. Respondent 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. chs. 51-15 and 43-07. In doing so, Respondent has committed acts in pursuit of an agreement and the agreement has proximately caused damage to North Dakota consumers.

10. Respondent is liable for his 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.'").

ORDER

11. Based upon the foregoing information, it appears to the Attorney General that Respondent has engaged in violations of N.D.C.C. chs. 51-15, and 43-07; **NOW, THEREFORE, IT IS ORDERED** pursuant to N.D.C.C. § 51-15-07 that Respondent his 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) soliciting, advertising, selling, or providing in North Dakota any contracting services or merchandise, including, but not limited to, repairing roofs, and all other services and/or

merchandise as defined in N.D.C.C. § 51-15-01(3); 2) soliciting using untrue, deceptive or misleading representations to consumers or engaging in deceptive acts or practices, fraud, false pretenses, false promises or misrepresentations with the intent that consumers rely thereon, in violation of N.D.C.C. § 51-15-02; 3) soliciting or accepting from consumers advance payments or consumer deposits in connection with any sale of merchandise, as defined by N.D.C.C. § 51-15-01(3); and 4) providing contracting services in North Dakota in violation of N.D.C.C. ch. 43-07. Respondent also shall immediately **CEASE AND DESIST** from issuing any invoices or bills to North Dakota consumers for the sale of contracting services or merchandise and **CEASE AND DESIST** from taking any payments from North Dakota consumers including, but not limited to, direct debits or withdrawals from North Dakota consumers' bank accounts, cash, checks, or credit card payments for the sale of contracting services or merchandise or other services and/or merchandise as defined in N.D.C.C. § 51-15-01(3).

12. **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

13. **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. Any violation of this Order that also is a violation of N.D.C.C. ch. 43-07 may result in additional civil

penalties of not more than \$5,000 per violation and is a Class A misdemeanor. Such penalties are separate and in addition to any civil penalties, costs, expenses, investigation fees, and attorney fees pursuant to N.D.C.C. chs. 51-15, 43-07 or any other applicable statute. 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

14. **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. Respondent has the right to be represented by legal counsel at the hearing.

Dated this 31st day of October, 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 E. Interstate Ave., Suite 200
Bismarck, ND 58503-5574
(701) 328-3404

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

Petitioner,

-vs-

JEFF LAFOUNTAIN doing business as
GITTR DONE CONSTRUCTION

Respondent.

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

CPAT # 130238.001

STATE OF NORTH DAKOTA)
) ss
COUNTY OF BURLEIGH)

1. Alexis Bieber states under oath as follows:
2. I swear and affirm upon penalty of perjury that the statements made in this affidavit are true and correct and made upon personal knowledge.
3. I am of legal age and on the 31st day of October, 2013, I served (1) CEASE AND DESIST ORDER, NOTICE OF CIVIL PENALTY AND NOTICE OF RIGHT TO REQUEST A HEARING; and (2) AFFIDAVIT OF SERVICE BY CERTIFIED MAIL, FIRST CLASS MAIL AND EMAIL upon the following by placing a true and correct copies thereof in an envelope addressed as follows:

FIRST CLASS MAIL

JEFF LAFOUNTAIN
PO BOX 662
DUNSEITH ND 58329-0662

FIRST CLASS MAIL

JEFF LAFOUNTAIN
PO BOX 104
MOHALL ND 58761-0104

CERTIFIED RETURN RECEIPT # 7011 2000 0001 3047 8488

JEFF LAFOUNTAIN
PO BOX 662
DUNSEITH ND 58329-0662

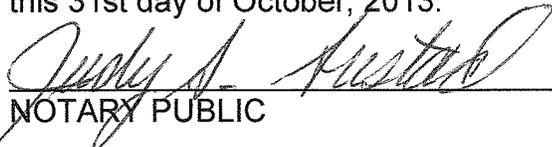
CERTIFIED RETURN RECEIPT # 7011 2000 0001 3047 8471

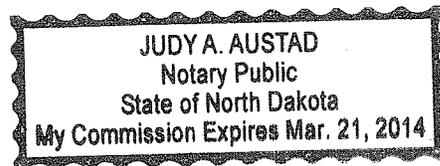
JEFF LAFOUNTAIN
PO BOX 104
MOHALL ND 58761-0104

and depositing the same, with postage prepaid, in the United States mail at Bismarck,
North Dakota.


ALEXIS BIEBER

Subscribed and sworn to before me
this 31st day of October, 2013.


NOTARY PUBLIC



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