



OFFICE OF ATTORNEY GENERAL
 CONSUMER PROTECTION AND ANTITRUST DIVISION
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STATE OF NORTH DAKOTA
 OFFICE OF ATTORNEY GENERAL

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

Petitioner,

-vs-

JEREMIAH BJERKE doing business as
 FROGGIEZ PAINTING & MORE,

Respondent.

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

CPAT 160075.001

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

Jeremiah Bjerke
 Froggiez Painting & More
 1010 10th Ave. SE
 Jamestown, ND 58401-5861
 Jeremiahbjerke2016@gmail.com

BACKGROUND

1. The Attorney General of North Dakota has a reasonable basis to believe Respondent has engaged in, and is engaging in, acts or practices declared unlawful by N.D.C.C. ch. 43-07, commonly referred to as the Contractors Law, and N.D.C.C. ch. 51-15, commonly referred to as the "Consumer Fraud 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, individually and by and through his agents, is doing business under some or all of the names identified above, and has engaged in violations of North Dakota law by engaging in the business of, or acting in the capacity of, a contractor within North Dakota when the cost, value, or price per job exceeds the sum of four thousand dollars in violation of N.D.C.C. § 43-07-02. Under N.D.C.C. § 43-07-14(3), an act or omission under N.D.C.C. § 43-07-14(1)(e) constitutes ground for the Attorney General to bring an action under N.D.C.C. ch. 51-15. Respondent, individually and by and through his agents, has acted, used, or employed deceptive acts or practices, fraud, false pretenses, false promises, or misrepresentations, with the intent that others rely thereon in connection with the sale or advertisement of merchandise in violation of N.D.C.C. § 51-15-02.

3. Jeremiah Bjerke's last known address was 1010 10th Ave. SE, Jamestown, ND 58401-5861. Jeremiah Bjerke operated Froggiez Painting & More as a sole proprietorship from the same address.

4. Jeremiah Bjerke, doing business as Froggiez Painting & More, is in the business of advertising, soliciting and selling merchandise, including contractor services. Respondent, or Respondent's agents on Respondent's behalf, solicited North Dakota customers.

5. Respondent made untrue, deceptive and misleading representations to consumers and engaged in the business of contracting where the cost, value, or price per job exceeded the sum of four thousand dollars. Respondent advertised, solicited,

and sold merchandise to North Dakota consumers, without disclosing his lack of licensure.

6. On April 21, 2016, The Attorney General received information that in March and April Respondent took advance deposits from an elderly consumer for contracting work that had not been completed.

7. Based on the consumer complaint and other information received, it appeared to the Attorney General that Respondent engaged in violations of North Dakota law, and the Attorney General commenced an investigation into the Respondent's business practices. On May 16, 2016, the Attorney General offered an Assurance of Voluntary Compliance ("AVC") to Respondent in order to settle the licensing issue without further litigation, investigation, or adjudication. The Attorney General requested return of the AVC on or before May 31, 2016. Respondent did not respond.

8. On May 31, 2016, the Attorney General sent a letter to Respondent, requesting that Respondent complete and return the AVC on or before June 7, 2016. Respondent did not respond.

9. On June 7, 2016, the Attorney General issued a Civil Investigative Demand ("CID") to Respondent pursuant to the Attorney General's authority under N.D.C.C. § 51-15-04. The CID was sent to Respondent at his last known address and by e-mail to jeremiahbjerke2016@gmail.com. The CID requested response by July 7, 2016. The certified mail copy of the CID was returned, while the e-mailed copy was delivered. The Attorney General, by e-mail, requested that Respondent comply with the CID, or enter into the AVC, on or before July 15, 2016. Respondent did not respond.

10. Respondent did not respond to the Civil Investigative Demand. Pursuant to N.D.C.C. § 51-15-07, the Attorney General may issue a cease and desist order for Respondent's failure to respond to the Civil Investigative Demand.

11. On July 13, 2016, the Attorney General received a consumer complaint dated July 11, 2016 from a Jamestown, North Dakota consumer. That complaint, and other information received from the consumer, alleges that Respondent on March 22, 2016 solicited and received an advance payment from the consumer in the amount of \$4,000.00 total for a tree removal project. Respondent solicited a \$3,000.00 advance payment from the consumer. In addition, the consumer transferred ownership of a vehicle to Respondent in exchange for a \$1,000.00 reduction for the price of materials. Respondent never provided the consumer with all of the materials agreed upon and still has possession of the vehicle.

12. The July 11, 2016 complaint further alleges that Respondent entered into a second agreement with the consumer on March 29, 2016 in the amount of \$25,273.50 for a new foundation and an addition. Respondent solicited and received an advance payment from the consumer in the amount of \$7,636.50 on March 29, 2016. Respondent tore up the consumer's foundation, but did not complete any other improvements, leaving the consumer's property in an unsafe condition.

13. The July 11, 2016 complaint further alleges that Respondent entered into another agreement with the consumer on April 12, 2016 under which the Respondent promised to do interior work on the consumer's bathroom flooring and ceiling, and exterior work on his home for \$4,500.00. Respondent solicited and received an advance payment from the consumer in the amount of \$2,000.00 on April 12, 2016. The only

work Respondent completed on this project was to cut a hole in the consumer's bathroom floor.

14. The consumer alleges that Respondent promised and agreed to start and complete work in the approximate amount of \$33,733.50 and failed to complete most or all of the work as agreed. For these projects the Respondent solicited and received from the consumer total advance payments of \$12,636.50.

15. It appears to the Attorney General that Respondent, or Respondent's agents on Respondent's behalf, is engaged in in violations of N.D.C.C. ch. 43-07 by entering into contracts with consumers where the cost, value, or price per job exceeds four thousand dollars. Further, it appears that Respondent has engaged in violations of ch. 51-15 by acting, using, or employing deceptive acts or practices, fraud, false pretense, false promises, or misrepresentation, with the intent that others rely thereon in connection with the sale or advertisement of any merchandise.

16. It appears that 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, by contracting with consumers to perform contracting work and then not completing or starting the work.

ORDER

Based upon the foregoing information, it appears to the Attorney General that Respondent has engaged in violations of N.D.C.C. chs. 43-07 and 51-15. Respondent also has 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 Respondent, individually, immediately **CEASE AND DESIST** from: 1) soliciting or selling services and/or merchandise as defined in N.D.C.C. § 51-15-01(3), including contractor services, to North Dakota consumers; and 2) soliciting consumers using untrue, deceptive or misleading representations 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. Respondent also shall immediately **CEASE AND DESIST** from issuing any invoices or bills to North Dakota consumers for any 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 merchandise as defined in N.D.C.C. § 51-15-01(3).

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 \$5,000.00 per violation. Such penalties are separate and in addition to any civil penalties, costs, expenses, investigation fees, and attorney fees pursuant to N.D.C.C. ch. 51-15 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

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 at the Respondent's expense.

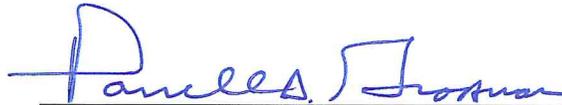
Dated this 26th day of July, 2016.

STATE OF NORTH DAKOTA

Wayne Stenehjem

Attorney General

BY:



Parrell D. Grossman, NDBID 04684

Assistant Attorney General

Director

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