



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

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

Petitioner,

-VS-

ELITE INFORMATION SOLUTIONS, INC;
WORLDWIDE INFO SERVICES, INC; and
MICHAEL R. HILGAR, individually

Respondents.

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

CPAT # 120303.001

.....
To each of the individuals and entities identified below (hereinafter collectively "Respondents"):

Elite Information Solutions, Inc.
509 S Chickasaw Trl #393
Orlando, FL 32825-7801
and
495 E. Semoran Blvd.
Casselberry, FL 32707-4978
888-522-4517

C/O

Tiffany J. Eaton, Esq.
Cove & Associates, P.A.
225 South 21st Ave
Hollywood, FL 33020

Worldwide Info Services, Inc.
478 E Altamonte Dr. Ste. 400
Altamonte Springs, FL 32701-4628

Michael R. Hilgar
14126 Fox Glove St.
Winter Garden, FL 34787-4672
and
1253 Valley Creek Run
Winter Park, FL 32792-8156
and
478 E Altamonte Dr. Ste. 400
Altamonte Springs, FL 32701-4628

C/O

Tiffany J. Eaton, Esq.
Cove & Associates, P.A.
225 South 21st Ave
Hollywood, FL 33020

(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;" N.D.C.C. ch. 51-18, commonly referred to as the "Home Solicitation Sales Law;" and N.D.C.C. ch. 51-28, commonly referred to as the "Do Not Call Law." 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, individually and by and through their agents, are doing business under some or all of the names identified above and have engaged in violations of North Dakota's Consumer Fraud Law by making false or misleading

statements or misrepresentations in telephone solicitations aimed at consumers nationwide, including North Dakota consumers.

3. Elite Information Solutions, Inc. (hereinafter "Elite") is a Florida Corporation with a registered address at 509 S. Chickasaw Trail, #393, Orlando, Florida 32825, and has used the address of 495 E. Semoran, Blvd., Casselberry, Florida 32707. Worldwide Info Services, Inc. (hereinafter "Worldwide") is a Florida Corporation with a registered address at 478 E Altamonte Dr. Ste. 400, Altamonte Springs, FL 32701. Michael Hilgar (hereinafter "Hilgar") is the President and Registered Agent of Elite and Worldwide, and has used the mailing addresses of 14126 Fox Glove St., Winter Garden, Florida 34787, 1253 Valley Creek Run, Winter Park, Florida 32792, and 478 E Altamonte Dr. Ste. 400, Altamonte Springs, FL 32701.

4. Respondents are in the business of advertising, soliciting and selling merchandise, including medical alert devices and monitoring services, in the State of North Dakota and nationwide. Respondents, or Respondents' agents on Respondents' behalf, solicit customers through telemarketing. Due to Respondents' business practices, other Attorney's General have investigated and/or taken legal action against Elite and Hilgar including bringing actions to enjoin them from making telephone solicitations in their states.

5. Respondents have made untrue, deceptive and misleading representations to consumers and used false pretenses by calling, or having their agents call on their behalf, consumers and representing that the consumer was selected to receive a free medical alert system. However, despite telling the consumer that it was free, the consumer would have to pay a monthly fee for the monitoring service. In order to mislead consumers into believing that the telephone call was from a North

Dakota business Respondents, or Respondents' agents on Respondents' behalf, would display a 701 telephone number on the consumers' caller identification system. Once the consumer answered the telephone, Respondents, or their agents on their behalf, would begin playing a prerecorded message regarding an emergency medical alert device for seniors. The consumer would then be asked to press one to speak to a live operator regarding their product. During the telephone solicitation consumers were told that the medical alert device they were purchasing was affiliated with more well-known entities and associations in order to deceive consumers into purchasing their monitoring device and services. In addition to soliciting consumers using prerecorded messages, Respondents, or their agents on their behalf, have called North Dakota consumers on the Do Not Call list. During these telephone solicitations consumers were provided a telephone number to call if they were interested in receiving the medical alert device. The Attorney General's investigation discovered that Hilgar and Worldwide are the owners of a telephone number that was used during some of the telephone solicitations to receive a free medical alert system.

6. 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.

7. It appears that Respondents, or Respondents agents on Respondents' behalf, are engaged in telephone solicitations to telephone lines of subscribers in North Dakota who, for at least 31 days before the date the call is made, have been on the North Dakota or Federal Trade Commission do-not-call list and have engaged in the use of prerecorded messages, in violation of N.D.C.C. ch. 51-28, the Do Not Call law.

8. It appears that Respondents are marketing, soliciting and selling merchandise to North Dakota consumers, without providing consumers with the necessary notices of right to cancel, as required by the North Dakota Home Solicitation Sales statute, N.D.C.C. ch. 51-18, and are soliciting or accepting payments from North Dakota consumers prior to receiving an original copy of the sales contract signed by the consumer, in violation of N.D.C.C. § 51-18-04.2.

9. Violations of N.D.C.C. ch. 51-28 are violations of N.D.C.C. ch. 51-15.

10. Violations of N.D.C.C. ch. 51-18 are violations of N.D.C.C. ch. 51-15.

11. After receiving numerous complaints regarding illegal telephone solicitations for medical alert systems, the Attorney General commenced an investigation and issued a Civil Investigative Demand to Elite and Hilgar pursuant to the Attorney General's authority under N.D.C.C. § 51-15-04. However, Elite and Hilgar failed to completely respond to the Civil Investigative Demand. Their attorney, Tiffany Eaton in Hollywood FL, was notified that their response was insufficient and that the Attorney General could issue a Cease and Desist Order for failing to respond to a Civil Investigative Demand. Elite and Hilgar failed to provide any of the documents requested or answer all of the questions asked in the Civil Investigative Demand. Pursuant to N.D.C.C. § 51-15-07, the Attorney General may issue a cease and desist order for their failure to respond to the Civil Investigative Demand.

12. Respondents are 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 North Dakota's Consumer Fraud, Home Solicitation Statute, and Do Not Call Law. In doing so, Respondents have committed

acts in pursuit of the agreement and the agreement has proximately caused damage to North Dakota consumers.

13. 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.'").

14. 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. chs. 51-28, 51-18, and 51-15 and Respondents Elite Information Solutions, Inc. and Michael R. Hilgar 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) soliciting or selling to North Dakota consumers medical alert devices and monitoring services 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) advertising, soliciting, or selling to North Dakota consumers merchandise without providing the consumer the written and verbal notice of rights to cancel as required by N.D.C.C. ch. 51-18; 4) soliciting or accepting any payment from a North Dakota consumer before Respondents have received an original copy of the sales contract signed by the consumer, in violation of N.D.C.C. § 51-18-04.2; 5) engaging in telephone solicitations to the telephone line of any subscriber in North Dakota who, for at least 31 days before the date the call is made, has been on the North Dakota or Federal Trade Commission do-not-call list; and 6) engaging in the use of

prerecorded messages, in violation of N.D.C.C. ch. 51-28. Respondents also shall immediately **CEASE AND DESIST** from issuing any invoices or bills to North Dakota consumers for any medical alert devices and monitoring services 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 medical alert devices and monitoring services, or other services and/or 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 per violation. Any violation of this Order that also is a violation of N.D.C.C. ch. 51-18 may result in additional civil penalties of not more than \$5,000 per violation and is a Class B misdemeanor. Any violation of this Order that also is a violation of N.D.C.C. ch. 51-28 may result in additional civil penalties of not more than \$2,000 per violation and additional civil penalties of not more than \$5,000 per violation as a separate violation of N.D.C.C. ch. 51-15. 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. Respondents have the right to be represented by legal counsel at the hearing.

Dated this 21st day of February, 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
OFFICE OF ATTORNEY GENERAL

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

Petitioner,

-vs-

ELITE INFORMATION SOLUTIONS, INC;
WORLDWIDE INFO SERVICES, INC; and
MICHAEL R. HILGAR, individually

Respondents.

**AFFIDAVIT OF
SERVICE BY MAIL**

CPAT # 120303.001

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 21st day of February, 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 MAIL upon the following by placing a true and correct copies thereof in an envelope addressed as follows:

FIRST CLASS MAIL
ELITE INFORMATION SOLUTIONS INC
509 S CHICKASAW TRL #393
ORLANDO FL 32825-7801

CERTIFIED MAIL RECEIPT # 7011 2000 0001 3047 8167
ELITE INFORMATION SOLUTIONS INC
509 S CHICKASAW TRL #393
ORLANDO FL 32825-7801

FIRST CLASS MAIL
ELITE INFORMATION SOLUTIONS INC
495 E SEMONAN BLVD
CASSELBERRY FL 32707-4978

CERTIFIED MAIL RECEIPT # 7011 2000 0001 3047 8174
ELITE INFORMATION SOLUTIONS INC
495 E SEMONAN BLVD
CASSELBERRY FL 32707-4978

FIRST CLASS MAIL
TIFFANY J EATON ESQ
COVE & ASSOCIATES PA
225 SOUTH 21ST AVE
HOLLYWOOD FL 33020

CERTIFIED MAIL RECEIPT # 7011 2000 0001 3047 8181
TIFFANY J EATON ESQ
COVE & ASSOCIATES PA
225 SOUTH 21ST AVE
HOLLYWOOD FL 33020

FIRST CLASS MAIL
WORLDWIDE INFO SERVICES INC
478 E ALTAMONTE DR STE 400
ALTAMONTE SPRINGS FL 32701-4628

CERTIFIED MAIL RECEIPT # 7011 2000 0001 3047 8198
WORLDWIDE INFO SERVICES INC
478 E ALTAMONTE DR STE 400
ALTAMONTE SPRINGS FL 32701-4628

FIRST CLASS MAIL
MICHAEL R HILGAR
14126 FOX GLOVE ST
WINTER GARDEN FL 34787-4672

CERTIFIED MAIL RECEIPT # 7011 2000 0001 3047 9708
MICHAEL R HILGAR
14126 FOX GLOVE ST
WINTER GARDEN FL 34787-4672

FIRST CLASS MAIL
MICHAEL R HILGAR
1253 VALLEY CREEK RUN
WINTER PARK FL 32792-8156

CERTIFIED MAIL RECEIPT # 7011 2000 0001 3047 9715
MICHAEL R HILGAR
1253 VALLEY CREEK RUN
WINTER PARK FL 32792-8156

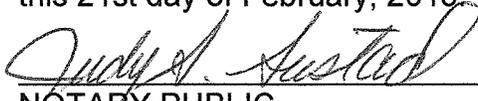
FIRST CLASS MAIL
MICHAEL R HILGAR
478 E ALTAMONTE DR STE 400
ALTAMONTE SPRINGS FL 32701-4628

CERTIFIED MAIL RECEIPT # 7011 2000 0001 3047 9722
MICHAEL R HILGAR
478 E ALTAMONTE DR STE 400
ALTAMONTE SPRINGS FL 32701-4628

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 21st day of February, 2013.


NOTARY PUBLIC

