



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-

CHAD EDWARD JOHNSON

Respondent.

CPAT # 130270.002

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

Chad E. Johnson
PO Box 258
Michigan, ND 58259-0258

(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 Chad Edward Johnson (hereinafter "Johnson") has engaged in advertising and/or soliciting the sale of merchandise, including but not limited to, contracting services to repair homes. 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 Chad Johnson 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/or 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 misrepresentations regarding when Respondent would work on the project, and the quality of Respondent's workmanship. 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, had billed a North Dakota consumer for \$3,600. Respondent did not have a contractor's license, as

required by N.D.C.C. ch. 43-07, when Respondent performed contracting work that was valued over \$2,000 and when he accepted the consumer's payment of \$1,325.35.

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 solicited 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. 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

9. 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 homes, 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).

10. **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

11. **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

12. **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.

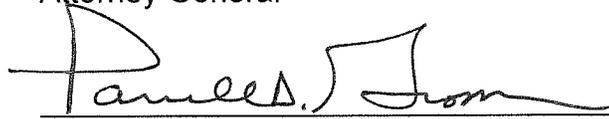
Dated this 12th day of February, 2014.

STATE OF NORTH DAKOTA

Wayne Stenehjem

Attorney General

BY:

A handwritten signature in black ink, appearing to read "Parrell D. Grossman", written over a horizontal line.

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

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CPAT # 130270.002

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 12th day of February, 2014, I served (1) Civil Investigative Demand and (2) Affidavit of Service by Certified Mail, First Class Mail and by Email upon the following by placing true and correct copies thereof in an envelope addressed as follows:

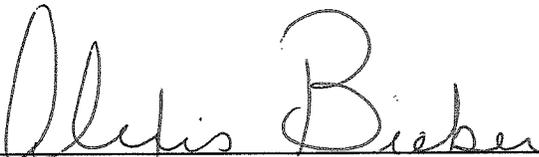
CERTIFIED MAIL RECEIPT # 7003 2260 0001 3517 2016

FIRST CLASS MAIL

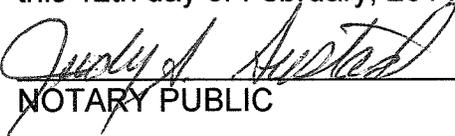
CHAD E JOHNSON
PO BOX 258
MICHIGAN ND 58259-0258

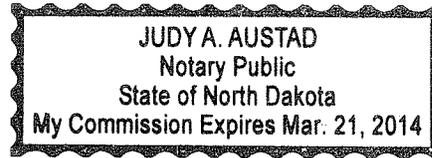
CHAD E JOHNSON
PO BOX 258
MICHIGAN ND 58259-0258

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 12th day of February, 2014.


NOTARY PUBLIC



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