



OFFICE OF ATTORNEY GENERAL  
 CONSUMER PROTECTION AND ANTITRUST DIVISION  
 GATEWAY PROFESSIONAL CENTER  
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 BISMARCK, NORTH DAKOTA 58503-5574



701-328-5570 (Telephone)  
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STATE OF NORTH DAKOTA  
 OFFICE OF ATTORNEY GENERAL

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

Petitioner,

-vs-

**MONTE EKERN** doing business as  
**OAKHILL CONSTRUCTION**

Respondent.

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

CPAT # 150001.001

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

Monte Ekern  
 OakHill Construction  
 10912 466th Ave  
 New Effington, SD 57255-6710  
 Email: mekern1964@gmail.com

(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 Respondent's unlawful acts or practices.

2. Respondent Monte Ekern, doing business as Oak Hill Construction, has engaged in advertising and soliciting the sale of merchandise, including but not limited to, contracting services to remodeling 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. An investigator from the Attorney General's contacted Respondent on January 6, 2015 after receiving information alleging that Respondent may have engaged in business activities in North Dakota without a contractor's license. Respondent did not have a contractor's license as required N.D.C.C. ch. 43-07, and during the conversation he admitted to engaging in contracting work over \$2,000. Respondent had solicited and accepted \$2,500 from a North Dakota consumer and failed to finish her home remodeling project.

4. Before issuing this Cease and Desist Order the Attorney General attempted to resolve this matter with an Assurance of Voluntary Compliance in which Respondent would be required to discontinue all business in North Dakota. However, Respondent lives in South Dakota, has stopped communicating with the Attorney General and is unwilling to resolve his illegal conduct. Therefore, North Dakota consumers are subject to potential additional and future harm if Respondent continues to operate his business.

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, including but not limited to, expressly, impliedly, or by omission of a material fact, misrepresenting to consumers that Respondent 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.

6. 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, including but not limited to, expressly, impliedly, or by omission of a material fact, misrepresenting to a consumer that when he solicited and accepted a \$2,500 advance payment from said consumer he would complete the work promised, and he failed to do so.

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.

### ORDER

8. 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 immediately **CEASE AND DESIST** from: 1) soliciting, advertising, selling, or providing in North Dakota any contracting services or merchandise, including, but not limited to, remodeling 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).

9. **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**

10. **YOU, MONTE EKERN, 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**

11. **YOU, MONTE EKERN, 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 9th day of March, 2015.

**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  
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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-

**MONTE EKERN** doing business as  
**OAKHILL CONSTRUCTION**

Respondent.

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

CPAT # 150001.001

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 9th day of March, 2015, I served (1) CEASE AND DESIST ORDER, NOTICE OF CIVIL PENALTY AND NOTICE OF RIGHT TO REQUEST A HEARING and (2) AFFIDAVIT OF CERTIFIED MAIL AND FIRST CLASS MAIL upon the following by placing a true and correct copies thereof in an envelope addressed as follows:

*FIRST CLASS MAIL*

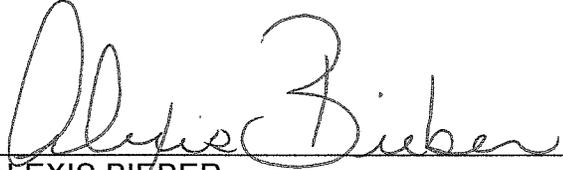
*CERTIFIED RECEIPT # 7011 2970 0003 8089 9408*

MONTE EKERN  
OAKHILL CONSTRUCTION  
10912 466TH AVE  
NEW EFFINGTON SD 57255-6710

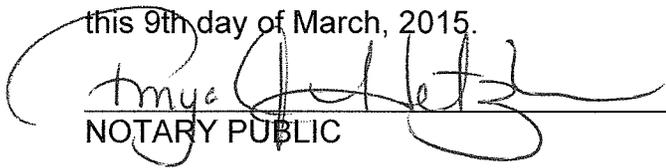
MONTE EKERN  
OAKHILL CONSTRUCTION  
10912 466TH AVE  
NEW EFFINGTON SD 57255-6710

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

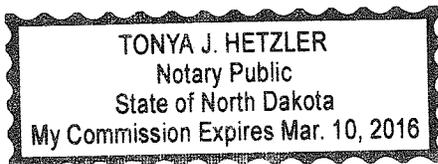
4. Also on the 9th day of March, 2015, I served CEASE AND DESIST ORDER, NOTICE OF CIVIL PENALTY AND NOTICE OF RIGHT TO REQUEST A HEARING and AFFIDAVIT OF SERVICE BY CERTIFIED MAIL; FIRST CLASS MAIL; AND EMAIL upon Monte Ekern, dba OakHill Construction by emailing the documents to [mekern1964@gmail.com](mailto:mekern1964@gmail.com).

  
ALEXIS BIEBER

Subscribed and sworn to before me  
this 9th day of March, 2015.

  
NOTARY PUBLIC

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