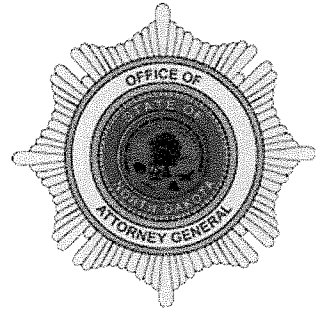


OFFICE OF ATTORNEY GENERAL  
CONSUMER PROTECTION AND ANTITRUST DIVISION  
GATEWAY PROFESSIONAL CENTER  
1050 E INTERSTATE AVENUE, STE 200  
BISMARCK, NORTH DAKOTA 58503-5574

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,

-VS-

TYLER GILES,

Respondent.

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

CPAT 180182.002

**To the individuals identified below ("Respondent"):**

TYLER GILES  
1442 10<sup>TH</sup> ST. S.  
FARGO, ND 58103

**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. 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 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: 1) in violation of N.D.C.C. § 43-07-02, 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 without first having a license; 2) in violation of N.D.C.C. § 51-15-02, contracting to perform work as a contractor, within the meaning of N.D.C.C. § 43-07-01(1), and then failing to perform the contracted work; and 3) in violation of N.D.C.C. § 51-15-02, representing to consumers that he holds a contractor's license when he is not so licensed.

3. Respondent's last known address is 1442 10<sup>th</sup> St. S., Fargo, ND 58103. Respondent operated as a sole proprietor in North Dakota.

4. Respondent is in the business of soliciting and selling merchandise, including performing building construction work. Respondent, or Respondent's agents on Respondent's behalf, solicited North Dakota customers.

5. Respondent engaged in the business or acted in the capacity of a contractor, within the meaning of N.D.C.C. § 43-07-01(1), within North Dakota when the cost, value, or price per job exceeded the sum of four thousand dollars without first having a license. Under N.D.C.C. § 43-07-14(3), any person engaging in the business or acting in the capacity of a contractor in violation of N.D.C.C. § 43-07-02 subjects the unlicensed

person to all provisions, procedures, remedies, and penalties provided for in chapter 51-15.

6. On September 18, 2018, the Attorney General received a consumer complaint from a consumer in Dilworth, Minnesota. According to the consumer, she contracted with Tyler Giles on June 27, 2018 to repair and replace fencing at her home.

7. Respondent advertised his services on Facebook where he represented that he had five years of experience erecting and repairing fencing. When Respondent met with the consumer, and provided her with an estimate, he represented to her that he was licensed and bonded.

8. At a second meeting with Respondent, when the consumer elected to retain Respondent's services, he solicited and accepted an advance payment of \$6,570.00 pursuant to a contract for \$8,192.00. Respondent represented that the advance payment was intended for materials for the job, and that he would collect labor costs after the work was completed. Though work was to commence on July 13, 2018, Respondent never commenced work. The consumer requested a refund from Respondent via text messaging that Respondent failed to provide.

9. On September 27, 2018, during a telephone call with an investigator in the Attorney General's Office, Respondent provided an address of 1442 10<sup>th</sup> St. S., Fargo, ND 58103. During this telephone call, Respondent claimed that he did not know he needed a contractor's license. Respondent admitted that he performed or contracted to perform at least three jobs, and that at least one of them was over \$4,000.00.

10. According to court records, Respondent was sued on June 26, 2018 by consumers who alleged that they retained Respondent to build a fence at their home for

a total contract price of \$6,397.00. Respondent missed sixteen scheduled dates for his performance under the contract. The consumers sued Respondent after he failed to provide a refund. In their suit, the consumers sought damages totaling \$3,442.00 from Respondent. Judgment was entered against Respondent for \$4,434.50 that Respondent has not paid.

11. Respondent does not hold a contractor's license, and did not hold a contractor's license when he contracted with consumers and solicited and accepted advance payments above \$4,000.00.

12. Based on information received, it appears to the Attorney General that Respondent is or was engaged in violations of North Dakota law. Pursuant to N.D.C.C. § 51-15-06.1, on October 29, 2018, the Attorney General offered an Assurance of Voluntary Compliance ("AVC") to Respondent to settle his violations of N.D.C.C. §§ 43-07-02 and 51-15-02 without investigation and litigation. The Attorney General requested return of the AVC on or before November 12, 2018.

13. After Respondent failed to return the proffered Assurance of Voluntary Compliance, on November 19, 2018, the Attorney General sent a letter to Respondent requesting that Respondent complete and return the AVC on or before December 3, 2018. Respondent did not respond.

14. On November 30, 2018, the Attorney General's original mailing to Respondent was returned by the United States Postal Service ("USPS"). The USPS indicated that Respondent moved without providing a forwarding address.

15. It appears to the Attorney General that Respondent, or Respondent's agents on Respondent's behalf, is or was engaged in violations of N.D.C.C. chs. 43-07

and 51-15 by: 1) engaging in the business or acting in the capacity of a contractor within North Dakota when the cost, value, or price per job exceeded the sum of four thousand dollars without first having a license granted by the Secretary of State; 2) contracting to perform work as a contractor, within the meaning of N.D.C.C. § 43-07-01(1), and then failing to perform the contracted work; and 3) representing to consumers that he holds a contractor's license when he does not hold a contractor's license.

### **ORDER**

Based upon the foregoing information, it appears to the Attorney General that Respondent has engaged in, or is engaged in, violations of N.D.C.C. chs. 43-07 and 51-15; **NOW, THEREFORE, IT IS ORDERED** pursuant to N.D.C.C. § 51-15-07 that Respondent immediately **CEASE AND DESIST** from: 1) soliciting or selling services and/or merchandise, as defined by N.D.C.C. § 51-15-01(3), to North Dakota consumers, including while engaged in the business of, or acting in the capacity of a contractor within the meaning of N.C.C.C. § 43-07-01(1); 2) engaging in the business 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 without first having a license provided in accordance with N.D.C.C. ch. 43-07; and 3) 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 \$1,000.00 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 Respondent's expense.

Dated this 3rd day of January, 2019.

**STATE OF NORTH DAKOTA**

Wayne Stenehjem  
Attorney General

BY: 

Parrell D. Grossman, NDBID 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) 328-5570

STATE OF NORTH DAKOTA  
BURLEIGH COUNTY

BEFORE THE  
ATTORNEY GENERAL

IN THE MATTER OF:

GILES, TYLER

Respondent

**AFFIDAVIT OF SERVICE  
BY MAIL AND EMAIL**

CPAT 180182.002

STATE OF NORTH DAKOTA    )  
  ) ss  
COUNTY OF BURLEIGH    )

1. Alexis Bieber states under oath as follows: 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 3rd day of January, 2019 I served the CEASE AND DESIST ORDER, NOTICE OF CIVIL PENALTY AND NOTICE OF RIGHT TO REQUEST A HEARING upon the following by placing true and correct copies thereof in an envelope addressed as follows:

FIRST CLASS MAIL

TYLER GILES  
1442 10TH ST S  
FARGO ND 58103

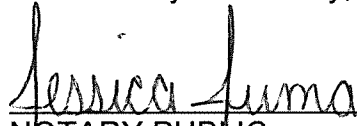
and depositing the same, with postage prepaid, in the United States mail at Bismarck, North Dakota, as first class mail and as CERTIFIED MAIL, RETURN RECEIPT REQUESTED.



3. Also on the 3rd day of January, 2019 I served the CEASE AND DESIST ORDER, NOTICE OF CIVIL PENALTY AND NOTICE OF RIGHT TO REQUEST A HEARING Upon Respondents via electronic mail by e-mailing the document to [gilestyler63@gmail.com](mailto:gilestyler63@gmail.com).

  
\_\_\_\_\_  
Alexis Bieber

Subscribed and sworn to before me  
this 3rd day of January, 2019.

  
\_\_\_\_\_  
NOTARY PUBLIC

