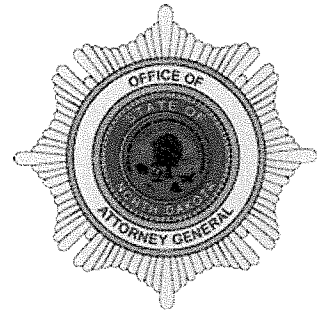




OFFICE OF ATTORNEY GENERAL
 CONSUMER PROTECTION AND ANTITRUST DIVISION
 GATEWAY PROFESSIONAL CENTER
 1050 E INTERSTATE AVENUE, STE 200
 BISMARCK, NORTH DAKOTA 58503-5574



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-

TIMOTHY WILLIS JACOBSON,

Respondent.

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

CPAT 180208.002

To the individuals identified below ("Respondent"):

TIMOTHY WILLIS JACOBSON
 404 1ST S.,
 FAIRMOUNT, ND 58030-4120

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 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: 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 404 1st St. S., Fairmount, ND 58030-4120. Respondent has also resided at 403 3rd St. S., Wahpeton, ND 58075. 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), in 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 October 26, 2018, the Attorney General received a consumer complaint from a consumer in Marion, North Dakota. According to the consumer, on October 24, 2017, she entered into a \$14,000.00 contract with Respondent for him to perform work for her in the capacity of a contractor, within the meaning of N.D.C.C. § 43-07-01(1). Among other work, Respondent contracted to install metal over an existing roofing on a barn. Respondent solicited and accepted an advance payment of \$7,000.00. Respondent cashed the consumer's check on the same date. Respondent represented that the advance payment was to purchase the necessary materials to complete the project. Respondent contracted to complete the work by November 30, 2017.

7. Respondent did not perform the contracted work, even after promising that he would complete the work on July 4, 2018, eight months after the originally promised completion date. After representing to the consumer that he would complete her work on July 4, 2018, Respondent stopped communicating with the consumer. The consumer later learned that Respondent never ordered materials for her project.

8. On August 20, 2018, following mailings to Respondent from the consumer, Respondent returned \$500.00 to the consumer.

9. On September 10, 2018, Respondent returned another \$1,000.00 to the consumer.

10. Respondent has not refunded the remaining \$5,500.00 to the consumer, and has not otherwise communicated with the consumer.

11. Criminal charges were filed against Respondent in Barnes County on December 17, 2018 in connection with this transaction. The criminal filings allege that Respondent engaged in construction fraud and contracting without a license.

12. According to court filings, on October 19, 2018, the Cass County State's Attorney filed criminal charges against Respondent alleging construction fraud and contracting without a license. According to the incident report and affidavit of probable cause, on October 7, 2017, Respondent solicited and accepted advance payments of approximately \$7,700.00 from a consumer to perform work in the capacity of a contractor, within the meaning of N.D.C.C. § 43-07-01(1). Respondent then failed to complete the work and failed to refund the consumer's advance payment.

13. 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.

14. 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. § 51-15-04, on November 1, 2018, the Attorney General issued a Subpoena and Subpoena Duces Tecum to Respondent that required him to appear before the Attorney General on November 19, 2018 at 10:30 a.m.

15. The Attorney General requested the Richland County Sheriff to serve Respondent at his last known address: 404 1st St. S., Fairmount, ND 58030-4120.

16. According to the Sheriff's Return of Service, dated November 15, 2018, Defendant could not be located and the Attorney General's Subpoena and Subpoena Duces Tecum could not be served on Respondent.

17. 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 2nd 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:

TIMOTHY WILLIS JACOBSON

Respondent

**AFFIDAVIT OF
SERVICE BY MAIL
AND CERTIFIED MAIL**

CPAT 180208.002

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 2nd 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

JACOBSON, TIMOTHY
404 1ST ST S
FAIRMOUNT, ND 58030-4120

CERTIFIED MAIL RECEIPT # 7014 1820 0000 9090 8861

JACOBSON, TIMOTHY
404 1ST ST S
FAIRMOUNT, ND 58030-4120

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.

Alexis Bieber
Alexis Bieber

Subscribed and sworn to before me
this 2nd day of January, 2019.

Jessica Juma
NOTARY PUBLIC

