

STATE OF NORTH DAKOTA  
COUNTY OF GRAND FORKS

IN DISTRICT COURT  
NORTHEAST CENTRAL JUDICIAL  
DISTRICT

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

Petitioner,

-vs-

NICHOLAS J. DEROSIER, TEAM LAWN,  
INC., VAUGHN CONSTRUCTION, INC.,  
doing business as TEAM LAWN AND  
LANDSCAPE, and doing business as  
VAUGHN CONSTRUCTION,

Respondents.

Civil No. 18-2019-CV-01907

**ORDER OF INJUNCTION AND TO  
COMPLY**

CPAT 190090.001

¶1] On June 12, 2019, pursuant to the Attorney General's authority under N.D.C.C. §§ 51-15-04 and 51-15-05, the Attorney General issued a Subpoena Duces Tecum and Subpoena to Appear ("subpoena") to Respondents. Index # 5.

¶2] On June 18, 2019, the subpoena was personally served on Respondent DeRosier. Index # 6.

¶3] The subpoena issued to Respondents required Respondents to produce demanded documents by 5:00 p.m. on June 27, 2019. Index # 5 at p. 2. Respondent DeRosier was required to appear to be examined under oath on July 11, 2019 at 10:30 a.m. Id.

¶4] Respondents did not comply with the Attorney General's subpoena, but instead objected to the Attorney General's subpoena. Index # 4, ¶ 22; Index # 7.

[¶5] By letter dated June 27, 2019, the Attorney General requested that Respondents comply with its subpoena by producing the demanded documents on or before July 12, 2019, and required Respondent DeRosier to appear to be examined under oath on July 17, 2019 at 10:00 a.m. Index # 4 at ¶ 23; Index # 8.

[¶6] Respondents did not comply with the Attorney General's subpoena even after Respondent DeRosier told counsel for the State that he would comply. Index # 4 at ¶¶ 25-27.

[¶7] On August 5, 2019, this action was initiated by service of the State's Application for Injunction and Order to Compel ("Application") on Respondents. Index ## 9, 12-13.

[¶8] Respondents did not file an answer brief in response to the State's Application.

[¶9] On October 14, 2019, hearing was held on the State's Application. The Attorney General appeared through counsel. Respondents did not appear.

[¶10] Under N.D.C.C. § 51-15-06, the Attorney General may, after notice, apply to a district court and, after a hearing, request an order "[g]ranted injunctive relief, restraining the sale or advertisement of any merchandise," "[v]acating, annulling, or suspending" a business's charter; and "[g]ranted such other relief as may be required." N.D.C.C. § 51-15-06.

[¶11] A district court's inquiry in proceedings for enforcing an administrative subpoena is limited to whether the subpoena is within the statutory authority of the agency; the information sought is reasonably relevant to the inquiry of the administrative proceeding; the subpoena is reasonably specific; and the subpoena is not unduly broad or

burdensome. State ex rel. Workforce Safety and Insurance v. Altru Health Systems, 2007 ND 38, ¶ 11, 729 N.W.2d 113.

[¶12] Under N.D.R.Ct. 3.2(c), “Failure to file a brief by the opposing party may be deemed an admission that, in the opinion of party or counsel, the motion is meritorious.” N.D.R.Ct. 3.2(c).

[¶13] The Court, having reviewed the State of North Dakota's Application for Injunction and Order to Compel and all papers on file, finds that: (1) the Attorney General's subpoena is within the statutory authority of the Attorney General's Office under N.D.C.C. §§ 51-15-04 and 51-15-05; (2) the information sought by the Attorney General's subpoena, including Respondents' business and financial records, is relevant to the Attorney General's investigation of possible violations of N.D.C.C. chs. 43-07 and 51-15; (3) the subpoena is reasonably specific; and (4) the subpoena is not unduly broad or burdensome.

[¶14] Based on the law and facts presented, the Court is satisfied Respondents have without good cause or reason failed to comply with the Attorney General's subpoena.

[¶15] The State of North Dakota's Application is hereby GRANTED and NOW THEREFORE IT IS ORDERED that:

- a. Respondents, Nicholas J. DeRosier, Team Lawn, Inc., and Vaughn Construction, Inc., doing business as Team Lawn and Landscape and Vaughn Construction, shall within 15 days of the court's Order produce all of the documents demanded in the Attorney General's June 12, 2019 subpoena;

- b. Respondent Nicholas J. DeRosier, shall appear before the Attorney General to be examined under oath on December 2, 2019 at 9:00 a.m., or on another date and time as agreed between the State and Respondents;
- c. Pursuant to N.D.C.C. § 51-15-06, Respondents Nicholas J. DeRosier, Team Lawn, Inc., and Vaughn Construction, Inc., doing business as Team Lawn and Landscape and Vaughn Construction, their agents, employees, representatives, successors, assigns, and all other persons in active concert or participation with them, are enjoined from directly or indirectly engaging in any solicitation or sale of services or merchandise, as defined by N.D.C.C. § 51-15-01, including services as a contractor, in the State of North Dakota;
- d. That the injunction shall remain in place until Respondents, Nicholas J. DeRosier, Team Lawn, Inc., and Vaughn Construction, Inc., doing business as Team Lawn and Landscape and Vaughn Construction, fully comply with the June 12, 2019 subpoena and until the injunction is terminated by further order of the Court;
- e. Pursuant to N.D.C.C. § 51-15-06, the charters of Team Lawn, Inc. and Vaughn Construction, Inc. are vacated, annulled, or suspended unless and until Respondents, Nicholas J. DeRosier, Team Lawn, Inc., and Vaughn Construction, Inc., doing business as Team Lawn and Landscape and Vaughn Construction, fully comply with the June 12, 2019 subpoena and until further order of the Court;
- f. Pursuant to N.D.C.C. § 51-15-06, the trade name "Team Lawn and Landscaping is vacated, annulled, or suspended unless and until Respondents,

- Nicholas J. DeRosier, Team Lawn, Inc., and Vaughn Construction, Inc., doing business as Team Lawn and Landscape and Vaughn Construction, fully comply with the June 12, 2019 subpoena and until further order of the Court;
- g. Pursuant to N.D.C.C. § 51-15-10, Respondents Nicholas J. DeRosier, Team Lawn, Inc., and Vaughn Construction, Inc., doing business as Team Lawn and Landscape and Vaughn Construction, shall pay to the Attorney General the amount of \$2,531.16 for the reasonable costs, expenses, and attorney's fees incurred by the State in bringing its Application for Injunction and Order to Compel.
- h. Violation of this Order shall be punishable as contempt of court pursuant to N.D.C.C. ch. 27-10.

**BY THE COURT:**

Signed: 10/15/2019 10:14:37 AM



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District Court Judge