



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-

BETTER BUSINESS MARKETING, INC., and
 RICHARD WADE,
 LEMUEL THOMPSON, and
 DAVID ANDERSON, Individually,
 dba BERRY LAW GROUP

Respondents.

CPAT 200091.002

To the individual and entity identified below hereinafter "Respondents"):

BERRY LAW GROUP
 304 S JONES BLVD SUITE 3011
 LAS VEGAS NV 89107

BETTER BUSINESS MARKETING, INC.
 DBA BERRY LAW GROUP
 2578 ENTERPRISE RD #191
 ORANGE CITY FL 32763-7904

RICHARD WADE
 BETTER BUSINESS MARKETING, INC.
 2578 ENTERPRISE RD #191
 ORANGE CITY FL 32763-7904

LEMUEL THOMPSON
131 WATER FRONT WAY 240
ALTAMONTE SPRINGS FL 32701-8053

DAVID ANDERSON
BETTER BUSINESS MARKETING, INC.
2578 ENTERPRISE RD #191
ORANGE CITY FL 32763-7904

(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 Respondents have engaged in and are engaging in acts or practices declared unlawful by North Dakota Century Code (N.D.C.C.) N.D.C.C. ch. 10-19.1, the North Dakota Business Corporation Act; ch. 13-11, the "Debt Settlement Provider Law;" ch. 47-25, "Trade Names;" ch. 51-18, the "Home Solicitation Sales Statute;" ch. 51-15, the "Consumer Fraud Law;" and ch. 51-28, commonly referred to as the "Do Not Call Law." It is necessary and appropriate in the public interest and for protection of consumers to restrain the Respondents' unlawful acts or practices.

[¶2] It appears to the Attorney General that Respondents, individually and by and through their agents, are engaged in violations of North Dakota law by: 1) transacting business in the State without procuring a certificate of authority from the Secretary of State, in violation of N.D.C.C. § 10-19.1-134 ; 2) acting as a debt settlement provider in North Dakota without first having obtained a debt-settlement provider license, in violation of N.D.C.C. § 13-11-02; 3) engaging in business in the State under trade names not registered with the Secretary of State, in violation of N.D.C.C. § 47-25-02; 4) engaging in

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 merchandise, in violation of N.D.C.C. § 51-15-02; 5) engaging in home solicitation sales without giving customers the required notice of right to cancel and without complying with other requirements of N.D.C.C. ch. 51-18, in violation of N.D.C.C. ch. 51-18,; and 6) engaging in telephone solicitations to the telephone line of North Dakota consumers who are on the do-not-call list, in violation of N.D.C.C. ch. 51-28.

[¶3] Respondent Better Business Marketing, Inc. is a Florida Profit Corporation with a principal place of business at 2578 Enterprise Rd #191, Orange City, Florida 32763. Better Business Marketing, Inc. was administratively dissolved by the Florida Department of State, Division of Corporations, for failure to file an annual report on September 27, 2019.

[¶4] Respondent Lemuel Thompson is a resident of the State of Florida, with an address at 131 Water Front Way #240, Altamonte Springs, Florida 32701, and was the registered agent, vice president and owner of Better Business Marketing, Inc.

[¶5] Respondent Richard Wade is a resident of the State of Florida, using the address of 2578 Enterprise Rd #191, Orange City, Florida 32763, and was the President and owner of Better Business Marketing, Inc. using an address of 2578 Enterprise Rd #191, Orange City, Florida 32763.

[¶6] Respondent David Anderson is a resident of the State of Florida, using the address of 2578 Enterprise Rd #191, Orange City, Florida 32763, and purchased the telephone number 844-711-3131 used by Better Business Marketing, Inc. for Berry Law Group.

[¶7] Respondents Better Business Marketing, Inc., and Lemuel Thompson. Richard Wade and David Anderson, individually (hereinafter “Respondents”) are engaged in the business of advertising, soliciting or selling merchandise, as that term is defined in N.D.C.C. § 51-15-01, including debt settlement services, to residents in North Dakota and elsewhere.

[¶8] Respondent Berry Law Group is a fictitious name of Respondents.

[¶9] Respondents transacted business in North Dakota without obtaining a certificate of authority from the Secretary of State, in violation of N.D.C.C. § 10-19.1-134. Under N.D.C.C. § 10-19.1-142(4), the Attorney General may bring proceedings to recover all amounts due the State under N.D.C.C. § 10-19.1-142. Under N.D.C.C. § 10-19.1-142(5), a foreign corporation that transacts business in the State without a valid certificate of authority is subject to a civil penalty not to exceed five thousand dollars (\$5,000.00). Under N.D.C.C. § 10-19.1-142(6), the Attorney General may bring an action to recover penalties due the State pursuant to N.D.C.C. § 10-19.1-142(4). [¶10] Respondents engaged in business in the State under trade names not registered with the Secretary of State in violation of N.D.C.C. § 47-25-02.

[10] On April 17, 2020, the Attorney General received a consumer complaint from a North Dakota consumer who received an unsolicited phone call from Respondents, on March 4, 2020, stating they would be able to reduce the consumer’s credit card debt to near zero. Respondents represented to the consumer that they generally work with elderly citizens who have been charged extreme interest rates for a number of years and that they are familiar with negotiating with the credit card companies to get amounts owed reduced to near zero. Respondents presented the consumer with a contract via email,

which the consumer signed and returned. The next day, Respondents charged \$7,542 to the consumer's credit card under the name Berry Law Group of Maryland. On March 13, 2020, the consumer phoned Respondents to cancel the contract. The consumer requested his money refunded, and Respondents responded they would get back to him. The consumer also faxed a letter to Respondents requesting cancellation of the contract. The consumer never heard back from Respondents. The consumer has attempted to contact Respondents without success. The consumer neither received a refund nor the services promised by Respondents.

[¶11] N.D.C.C. section 13-11-02 prohibits any person from acting as a debt settlement provider without first having obtained a license under N.D.C.C. ch. 13-11 and requires any person who acts as a debt settlement provider to adhere to all the requirements of N.D.C.C. ch. 13-11. Respondents have not obtained the required debt-settlement provider license from the commissioner of financial institutions. It appears to the Attorney General that Respondents have engaged in violations of N.D.C.C. ch. 13-11 by acting as a debt settlement provider in North Dakota without the required license.

[¶12] N.D.C.C. section 51-15-02 prohibits the act, use, or employment of any deceptive acts or practices, fraud, false pretense, false promise, or misrepresentation, with the intent that others rely thereon in connection with the sale or advertisement of any merchandise. It appears to the Attorney General that Respondents have made false, deceptive and misleading statements in connection with the sale of merchandise in the State of North Dakota, in violation of N.D.C.C. §51-15-02, by falsely representing to the consumer that Respondents would provide services that Respondents did not or could not provide.

[¶13] N.D.C.C. ch. 51-18 regulates home solicitation sales and requires, among other things, that a seller provide North Dakota customers with both verbal and written notice of cancellation rights. It appears to the Attorney General that Respondents sold merchandise to North Dakota consumers without complying with the requirement of North Dakota's Home Solicitation Statute, N.D.C.C. ch. 51-18, by: 1) failing to give the consumer the required notice of the right to cancel, as required by N.D.C.C. § 51-18-04, 2) charging the consumer's credit card before receiving from the consumer an original copy of a contract that complies with the requirements of N.D.C.C. § 51-18-04, which is prohibited by N.D.C.C. § 51-18-04.2, and 3) refusing to cancel and refund the consumer's contract.

[¶14] N.D.C.C. ch. 51-28 regulates telephone solicitations and prohibits a caller from making telephone solicitations to the telephone line of any subscriber in North Dakota who, for at least 31 days before the date the call is made, has been on the North Dakota or Federal Trade Commission do-not-call list. It appears to the Attorney General that Respondents have made telephone solicitations in violation of N.D.C.C. § 51-28-06 by making a telephone solicitation to the telephone line of a North Dakota consumer who has been registered on the do-not-call list since 2012.

[¶15] Based on the consumer complaint and other information, it appeared to the Attorney General that Respondents engaged in violations of North Dakota law, and the Attorney General commenced an investigation into the Respondents' business practices.

[¶16] On May 13, 2020, the Attorney General issued a Civil Investigative Demand to Respondents pursuant to the Attorney General's authority under N.D.C.C. § 51-15-04. Delivery was made via email and certified mail. The certified mailings to Better Business

Marketing, Inc. dba Berry Law Group, David Anderson, and Richard Wade at 2578 Enterprise Rd #191, Orange City, Florida 32763-7904 were all delivered and signed for on May 15, 2020. The certified mailing to Lemuel Thomson, 131 Water Front Way 240, Altamonte Springs FL 32701-8053 was delivered on an unknown date, as the receipt was returned unsigned. The Civil Investigative Demand was emailed to Respondents at sales@betterbusinessmarketing.net, legalcarefast@gmail.com, and help@credit10.com. The response to the Civil Investigative Demand was due June 15, 2020.

[¶17] Respondents did not respond to the Civil Investigative Demand by June 15, 2020, and on June 22, 2020, the Attorney General sent a letter to Respondents, via mail and email, regarding the failure to respond to the Civil Investigative Demand, requesting compliance with the Civil Investigative Demand by July 2, 2020. The Attorney General received no response from Respondents.

[¶18] Respondents did not comply with the Civil Investigative Demand. Pursuant to N.D.C.C. § 51-15-07, the Attorney General may issue a cease and desist order for Respondents' failure to comply with the Civil Investigative Demand.

[¶19] Further, it appears to the Attorney General that Respondents have engaged in violations of N.D.C.C. chs. 10-19.1, 13-11, 47-25, 51-15, 51-28 and 51-18, and that each of the Respondents have engaged in a combination of two or more persons who have agreed to act together to inflict a wrong or an injury upon another, or who have agreed to act together to commit a lawful act using unlawful means to inflict a wrong or injury upon another, namely violation of N.D.C.C. chs. 10-19.1, 13-11, 47-25, 51-18, 51-28, and 51-15. In so doing, Respondents have committed acts in pursuit of the agreement and the agreement has proximately caused damage to North Dakota consumers.

[¶20] Respondents are liable for their 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.'").

[¶21] Respondents who are natural persons are additionally subject to personal liability for corporate misconduct. *Hilzendager v. Skwarok*, 335 N.W.2d 768 (N.D. 1983)(quoting *Schriock v. Schriock*, 128 N.W.2d 852, 866 (N.D. 1964))("... but, when the notion of legal entity is used to defeat public convenience, justify wrong, protect fraud, or defend crime, the law will regard the corporation as an association of persons.' Fletcher, Private Corporations Sec. 41 (1963 rev. vol.)"). The crime/fraud exception to the protections of corporate form has long been recognized in North Dakota, and "neither law nor equity will ever recognize the right of a corporate entity to become the receptacle or cover for fraud or wrong based on deception for the purpose of defeating the right of innocent parties." *McFadden v. Jenkins*, 169 N.W. 151, 163 (N.D. 1918). See also *Danks v. Holland*, 246 N.W.2d 86 (N.D. 1976); *Family Center Drug v. North Dakota St. Bd. of Pharm.*, 181 N.W.2d 738, 745 (N.D. 1970).

ORDER

[¶22] Based upon the foregoing information, it appears to the Attorney General that: 1) Respondents have engaged in violations of N.D.C.C. chs. 10-19.1, 13-11, 47-25, 51-18, 51-28, and 51-15; 2) Respondents have failed or refused to respond to the Civil

Investigative Demand as required by N.D.C.C. § 51-15-04; and 3) the issuance of this Cease and Desist Order is necessary and appropriate in the public interest. **NOW, THEREFORE, IT IS ORDERED** pursuant to N.D.C.C. § 51-15-07 that Respondents, individually, and where applicable their agents, servants, employees, contractors, and 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) engaging in the business of advertising, soliciting or selling merchandise, as that term is defined in N.D.C.C. § 51-15-01, including debt settlement services, to residents in North Dakota; 1) transacting business in the State without procuring a certificate of authority from the Secretary of State in compliance with N.D.C.C. ch. 10-19.1; 2) acting as a debt settlement provider in North Dakota without first obtaining a debt-settlement provider license issued by the commissioner of the department of financial institutions or otherwise complying with the requirements of N.D.C.C. chapter 13-11; 3) engaging in business in North Dakota under fictitious names or trade names not registered with the Secretary of State in compliance with N.D.C.C. ch. 47-25; 4) engaging in home solicitation sales without complying with N.D.C.C. chapter 51-18; 5) engaging in deceptive acts or practices, fraud, false pretenses, false promises, or misrepresentations, in violation of N.D.C.C. §51-15-02; and 6) engaging in telephone solicitations that violate N.D.C.C. chapter 51-28. 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).

[¶23] 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

[¶24] 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. Such penalties are separate and in addition to any costs, expenses, investigation fees, and attorney fees allowed pursuant to N.D.C.C. ch. 51-15 and any civil penalties, costs, expenses, investigation fees, and attorney fees allowed pursuant to N.D.C.C. chs. 10-19.1, 13-11, 51-18, 51-28, or any other applicable statute. Any violation of this Order that also is a violation of N.D.C.C. ch. 13-11 is a class C felony. Any violation of this Order that also is a violation of N.D.C.C. ch. 51-18 is a class B misdemeanor. 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

[¶25] 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 RECEIPT OF THIS ORDER. Respondent has the right to be represented by legal counsel at the hearing at Respondent's expense.

Dated this 23rd day of July, 2020.

STATE OF NORTH DAKOTA

Wayne Stenehjem

Attorney General

BY: Parrell D. Grossman

Parrell D. Grossman, ID No. 04684

Assistant Attorney General

Director, Consumer Protection and

Antitrust Division

Office of Attorney General

Gateway Professional Center

1050 East Interstate Avenue Ste. 200

Bismarck, ND 58503-5574

(701) 328-3404

STATE OF NORTH DAKOTA
BURLEIGH COUNTY

BEFORE THE
ATTORNEY GENERAL

IN THE MATTER OF:

BETTER BUSINESS MARKETING, INC., and
RICHARD WADE,
LEMUEL THOMPSON, and
DAVID ANDERSON, Individually,
dba BERRY LAW GROUP

Respondents

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

CPAT 200091.002

STATE OF NORTH DAKOTA)
) ss
COUNTY OF BURLEIGH)

1. Kimberly M. Missel 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 23rd day of July, 2020, 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

BERRY LAW GROUP
304 S JONES BLVD SUITE 3011
LAS VEGAS NV 89107

CERTIFIED MAIL RECEIPT 70191120000077826197

BERRY LAW GROUP
304 S JONES BLVD SUITE 3011
LAS VEGAS NV 89107

FIRST CLASS MAIL

BETTER BUSINESS MARKETING, INC.
DBA BERRY LAW GROUP
2578 ENTERPRISE RD #191
ORANGE CITY FL 32763-7904

CERTIFIED MAIL RECEIPT 70150640000226817669

BETTER BUSINESS MARKETING, INC.
DBA BERRY LAW GROUP
2578 ENTERPRISE RD #191
ORANGE CITY FL 32763-7904

FIRST CLASS MAIL

RICHARD WADE
BETTER BUSINESS MARKETING, INC.
2578 ENTERPRISE RD #191
ORANGE CITY FL 32763-7904

CERTIFIED MAIL RECEIPT 701*91120000077814842

RICHARD WADE
BETTER BUSINESS MARKETING, INC.
2578 ENTERPRISE RD #191
ORANGE CITY FL 32763-7904

FIRST CLASS MAIL

LEMUEL THOMPSON
131 WATER FRONT WAY 240
ALTAMONTE SPRINGS FL 32701-8053

CERTIFIED MAIL RECEIPT 70191120000077814859

LEMUEL THOMPSON
131 WATER FRONT WAY 240
ALTAMONTE SPRINGS FL 32701-8053

FIRST CLASS MAIL

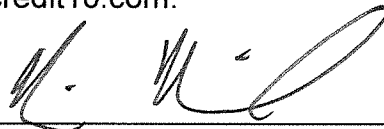
DAVID ANDERSON
BETTER BUSINESS MARKETING, INC.
2578 ENTERPRISE RD #191
ORANGE CITY FL 32763-7904

CERTIFIED MAIL RECEIPT 70191120000077814866

DAVID ANDERSON
BETTER BUSINESS MARKETING, INC.
2578 ENTERPRISE RD #191
ORANGE CITY FL 32763-7904

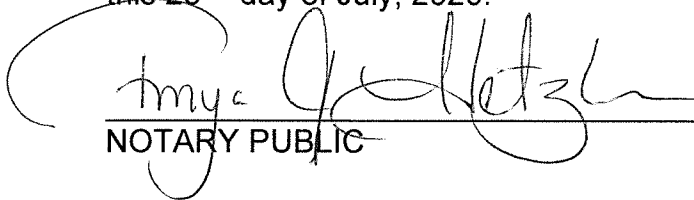
and depositing the same, with postage prepaid, in the United States mail at Bismarck, North Dakota, as first class mail and as CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

3. Also on the 23rd day of July, 2020 I served the CEASE AND DESIST ORDER, NOTICE OF CIVIL PENALTY AND NOTICE OF RIGHT TO REQUEST A HEARING Upon Respondent via electronic mail by e-mailing the document to: legalcarefast@gmail.com and help@credit10.com.



Kimberly M. Missel

Subscribed and sworn to before me
this 23rd day of July, 2020.



NOTARY PUBLIC