

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF GRAND FORKS

NORTHEAST CENTRAL JUDICIAL
DISTRICT

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

Plaintiff,

-vs-

NICHOLAS JAMES MORGAN-
DEROSIER, et al.,

Defendants.

Civil No. 18-2021-CV-00632

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER FOR JUDGMENT**

¶1] This matter came before the Court on the State's Motions for Summary Judgment filed on April 30, 2021 and May 17, 2021. Index ## 16-25. Defendants Nicholas James Morgan-DeRosier, Team Lawn, Inc., and Vaughn Construction, Inc. were served with the State's Motion for Summary Judgment by mail on April 30, 2021. Index # 20. Defendant GPHQ, LLC was served with the State's Motion for Summary Judgment by mail on May 17, 2021. Index # 25. More than 33 days have passed since Defendants were served with the State's Motions for Summary Judgment, and Defendants are now in default and have failed to dispute the facts and allegations set forth therein.

¶2] WHEREFORE, the Court, having reviewed the State's Motions for Summary Judgment together with all supporting documents filed therewith and all

other documents filed in this matter, and the Court being duly advised on the premises of this action, makes the following findings of fact and conclusions of law:

I. FINDINGS OF FACT

¶3 On April 18, 2019, the State initiated this action by service of the Summons and Complaint on Defendants. Index ## 3, 5-6, 9, 15.

¶4 Under N.D.R.Civ.P. 12(a)(1)(A), “a defendant must serve an answer within 21 days after being served with the summons and complaint.” N.D.R.Civ.P. 12(a)(1)(A). Under N.D.R.Civ.P. 8(b)(6), an allegation is admitted if it is not denied where a responsive pleading is required. N.D.R.Civ.P. 8(b)(6).

¶5 Though Defendant DeRosier filed admissions of service on behalf of his businesses on April 13, 2021, (Index ## 9-10), none of the Defendants thereafter answered the State’s Complaint.

¶6 Therefore, Defendants DeRosier, Team Lawn, Vaughn Construction, and GPHQ admit the entirety of the State’s Complaint, including the following specific facts that the Court now finds:

On or about May 20, 2017, Defendants DeRosier and Team Lawn, doing business as Team Lawn and Landscape, intending consumer reliance, solicited or contracted with North Dakota consumer Dawn Peterson, 4628 Loamy Hills Pl., Grand Forks, ND 58201, to, among other things, install a paverstone patio for an estimated total of \$7,003.23. At the time that Defendants solicited or contracted with Ms. Peterson, they did not hold a North Dakota contractor’s license and were not in compliance with N.D.C.C. § 43-07-02(1).

On or about April 25, 2020, Defendants DeRosier and GPHQ, doing business as Garden & Patio Headquarters, intending consumer reliance, solicited or contracted with North Dakota consumer Ruth Ann Halvorson, to, among other things, install a paverstone patio for a fixed price total of \$5,000.00. At the time that Defendants solicited or

contracted with Ms. Halvorson, they did not hold a North Dakota contractor's license.

On or about August 14, 2020, Defendant DeRosier, doing business as DeRosier Outdoor, intending consumer reliance, solicited or accepted from North Dakota consumer Ruth Ann Halvorson a payment of \$4,339.33 for work performed while engaged in the business of or acting in the capacity of a contractor. Similarly, on August 18, 2020, Defendant DeRosier, doing business as DeRosier Outdoor, intending consumer reliance, solicited or accepted from North Dakota consumer Ruth Ann Halvorson a payment of \$4,000.00 for work performed while engaged in the business of or acting in the capacity of a contractor. At the time that Defendant solicited or accepted payment from Ms. Halvorson, he did not hold a North Dakota contractor's license.

Upon information and belief, Defendants, while intending consumer reliance, solicited or contracted with additional North Dakota consumers while engaged in the business or acting in the capacity of a contractor at a time that they did not hold a North Dakota contractor's license in violation of N.D.C.C. § 43-07-02(1). Defendants' violations of N.D.C.C. § 43-07-02(1) constitute violations of N.D.C.C. ch. 51-15 and § 51-15-02.

On or about October 19, 2018, Defendant DeRosier, with his former business partner, submitted an application to obtain a contractor's license for Team Lawn. DeRosier is listed as a general partner on the application. As part of this application, Defendants represented that no partner had been charged with or convicted of a felony or misdemeanor within the past five years. Contrary to their representation, Defendant DeRosier, on May 5, 2016, had been charged with criminal mischief and criminal trespass in Case No. 18-2015-CR-1454.

On or about June 28, 2019, Defendant DeRosier submitted an application to obtain a contractor's license for Team Lawn. DeRosier completed the application, signed it electronically, and attested to the truth of his responses. As part of his sworn application, DeRosier represented that he had not been charged with or convicted of a felony or misdemeanor within the past five years. Contrary to his attestation, DeRosier had been charged with several criminal offenses, including two separate charges for driving under suspension or revocation and theft of property. DeRosier again withheld that he had been charged with criminal mischief and criminal trespass in Case No. 18-2015-CR-1454.

On or about September 17, 2020, Defendant DeRosier submitted an application to obtain a contractor's license for GPHQ. DeRosier completed the application, signed it electronically as "Nicholas Beeche," and attested to the truth of the responses. As part of his sworn application, DeRosier represented that he had not been charged with or convicted of a felony within the past five years. Contrary to his attestation, DeRosier had been charged with several criminal offenses, including three separate charges for driving under suspension or revocation. DeRosier again withheld that he had been charged with criminal mischief and criminal trespass.

In addition to the false responses about DeRosier's criminal history, Defendants falsely attested that they had not had a license denied, suspended, or revoked and falsely attested that they had not been party to a lawsuit (as plaintiff or defendant) in which fraud or misrepresentation was alleged. Contrary to their representations, DeRosier and Team Lawn had had a license denied, suspended, or revoked and they had been party to at least one lawsuit in where fraud or misrepresentation was alleged.

The only time during which any of the Defendants have held a contractor's license was from October 22, 2018 to April 29, 2019, when Team Lawn held a contractor's license. As alleged supra, Defendants obtained a contractor's license for Team Lawn after making false attestations on their contractor license application. At all other times, none of the Defendants have ever held a contractor's license. Furthermore, on October 15, 2019, the Grand Forks District Court entered an order enjoining Defendants from engaging in the solicitation or sale of services or merchandise, including services as a contractor, in North Dakota.

Even though they were not licensed and were enjoined from engaging in the sale or advertisement of merchandise in North Dakota, Defendants, intending consumer reliance, contracted with consumers in the State, including Robin Rendahl/Rendahl Farms, Roger and Susan Hodnefield, and Ruth Ann Halvorson/Lighthouse Properties.

Implicit in Defendants' contracts with consumers was the representation that their contracts were lawful when, to the contrary, they were not. Defendants' unlawful sale or advertisement of merchandise, including while unlicensed and in violation of a court order, constitutes a violation of N.D.C.C. § 51-15-02.

Compl, Index # 2, ¶¶ 15-18, 21-24, 27-29.

II. CONCLUSIONS OF LAW

[¶7] The State of North Dakota brought this action on the relation of Wayne Stenehjem, Attorney General of the State of North Dakota, in the public interest pursuant to N.D.C.C. ch. 51-15. The State of North Dakota ex rel. Wayne Stenehjem, Attorney General, has authority to act in this matter pursuant to N.D.C.C. ch. 51-15.

[¶8] The Court has subject matter jurisdiction pursuant to N.D.C.C. § 51-15-07.

[¶9] The Court has personal jurisdiction over Defendants.

[¶10] Under N.D.C.C. §§ 51-15-07, 51-15-10, and 51-15-11 this Court has jurisdiction to enter appropriate orders.

[¶11] The venue of this action in Grand Forks County is proper under N.D.C.C. § 28-04-05 and § 28-04-03 because all or part of the cause of action arose in Grand Forks County.

[¶12] The standard for summary judgment is well-established:

“Summary judgment is appropriate when ‘there is no dispute as to either the material facts or the inferences to be drawn from the undisputed facts, or whenever only a question of law is involved.’” Rooks v. Robb, 2015 ND 274, ¶ 10, 871 N.W.2d 468 (quoting First Nat’l Bank v. Clark, 332 N.W.2d 264, 267 (N.D. 1983)). Under Rule 56, N.D.R.Civ.P., the movant bears the burden of showing no genuine issue of material fact exists. Rooks, at ¶ 10. The party resisting the motion for summary judgment is given all favorable inferences which may reasonably be drawn from the evidence. Id. A party resisting summary judgment cannot only rely on the pleadings, but must present competent admissible evidence raising an issue of material fact. Swenson v. Raumin, 1998 ND 150, ¶ 9, 583 N.W.2d 102. A non-moving party cannot

rely on speculation. Beckler v. Bismarck Pub. Sch. Dist., 2006 ND 58, ¶ 7, 711 N.W.2d 172.

City of Glen Ullin v. Schirado, 2021 ND 72, ¶ 10.

[¶13] When a reasonable person can draw but one conclusion from the evidence, a question of fact becomes a matter of law for the court to decide. Stockman Bank of Montana v. AGSCO, Inc., 2007 ND 26, ¶ 9, 728 N.W.2d 142, 147; also, Grinnell Mut. Reinsurance Co. v. Ctr. Mut. Ins. Co., 2003 ND 50, ¶ 9, 658 N.W.2d 363, 369. “Although actions involving state of mind, such as fraud, are not usually suited for disposition by summary judgment, if a ... [party] fails to support his opposition to a summary judgment motion with sufficient facts to show that there is a genuine issue for trial, then, even in these cases, summary judgment is appropriate.” Dahl v. Messmer, 2006 ND 166, ¶ 8, 719 N.W.2d 341, 344 (quoting Kary v. Prudential Ins. Co. of Am., 541 N.W.2d 703, 706 (N.D. 1996)).

[¶14] Consumer fraud must be proved by a preponderance of the evidence. State ex rel. Spaeth v. Eddy Furniture Co., 386 N.W.2d 901, 902-03 (N.D. 1986). In civil actions, “preponderance of the evidence” is the “greater weight of evidence, or evidence which is more credible and convincing to the mind. That which best accords with reason and probability.” Black’s Law Dictionary 1182 (6th ed. 1990); also, Rooks v. N. Dakota Workers' Comp. Bureau, 506 N.W.2d 78, 80 (N.D. 1993).

[¶15] Under N.D.R.Ct. 3.2(c), because Defendants failed to submit a response to the State’s motions for summary judgment, the Court may deem their failure an admission that the State’s motion is meritorious. N.D.R.Ct. 3.2(c).

[¶16] There is no material issue of fact preventing an entry of summary judgment as a matter of law because the material facts of the Complaint are undisputed, and Defendants failed to present competent admissible evidence to raise a genuine issue of material fact. Schirado, 2021 ND at ¶ 10.

[¶17] Defendants are or were engaged in the advertisement, solicitation, and sale of “merchandise,” as that term is defined in N.D.C.C. § 51-15-01, in the State of North Dakota, including services as a “contractor” within the meaning of N.D.C.C. § 43-07-01(1).

[¶18] **Defendants DeRosier, Team Lawn, Vaughn Construction, and GPHQ violated N.D.C.C. § 43-07-02(1).** N.D.C.C. § 43-07-02(1) provides:

43-07-02. License Required – Construction Fraud – Penalty.

1. A person may not engage in the business nor act in the capacity of a contractor within this state when the cost, value, or price per job exceeds the sum of four thousand dollars nor may that person maintain any claim, action, suit, or proceeding in any court of this state related to the person’s business or capacity as a contractor without first having a license as provided in this chapter.

N.D.C.C. § 43-07-02(1).

[¶19] About N.D.C.C. § 43-07-02(1), the Supreme Court has said:

The purpose of the statute is to protect consumers from fraudulent practices and to protect the public from unqualified or uninsured contractors. The licensing requirements allow the registrar to investigate and determine the license applicant’s fitness to act in the capacity of a contractor, including requesting information about the applicant’s criminal history. N.D.C.C. § 43-07-04(1). The licensing requirements also protect the public by ensuring a contractor has liability insurance and has secured workforce safety and insurance coverage.

Snider v. Dickinson Elks Bldg., LLC, 2018 ND 55, ¶ 13, 907 N.W.2d 397, 401.

[¶20] By failing to answer the Complaint and oppose the State’s motions for summary judgment, Defendants admit that, while intending consumer reliance, they solicited or contracted with North Dakota consumers above the statutory amount of four thousand dollars while unlicensed, including consumers Dawn Peterson and Ruth Ann Halvorson. Supra, ¶ 6. Defendants admit that they contracted with additional consumers above the statutory amount while unlicensed. Id.

[¶21] **Defendants DeRosier, Team Lawn, and GPHQ violated N.D.C.C. § 43-07-14(1)(d).** N.D.C.C. § 43-07-14(1)(d) proscribes the “making of any false or misleading statement in any application for a license or renewal.” N.D.C.C. § 43-07-14(1)(d).

[¶22] By failing to answer the Complaint and oppose the State’s motions for summary judgment, Defendants DeRosier and Team Lawn admit that, on or about October 19, 2018 and June 28, 2019, they submitted contractor license applications with false or misleading information, by omitting DeRosier’s criminal charges and offenses, omitting that Defendants have been sued where fraud or misrepresentation was alleged, and by omitting that Defendants have had a license denied, suspended, or revoked. Supra, ¶ 6.

[¶23] Likewise, Defendants DeRosier and GPHQ admit that, on or about September 17, 2020, they submitted contractor license applications with false or misleading information, by omitting DeRosier’s criminal charges and offenses, omitting that Defendants have been sued where fraud or misrepresentation was

alleged, and by omitting that Defendants have had a license denied, suspended, or revoked. Id.

[¶24] **Defendants DeRosier, Team Lawn, Vaughn Construction, and GPHQ** violated N.D.C.C. § 51-15-02. N.D.C.C. § 51-15-02 provides:

51-15-02. Unlawful practices – Fraud – Misrepresentation. The act, use, or employment by any person of any 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 any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, is declared to be an unlawful practice.

N.D.C.C. § 51-15-02. Under N.D.C.C. § 43-07-14(3), violations of N.D.C.C. §§ 43-07-02 and 43-07-14 constitute violations of N.D.C.C. ch. 51-15.

[¶25] “It is well established that the Unlawful Sales Practices Act is remedial in nature and must be liberally construed to effectuate its purpose.” Staal v. Scherping Enterprises, Inc., 466 F. Supp. 3d 1030, 1034 (D.N.D. 2020) (citing State ex rel. Spaeth v. Eddy Furniture Co., 386 N.W.2d 901, 903 (N.D. 1986)). The purpose of the contracting licensing statute “is to protect consumers from fraudulent practices and to protect the public from unqualified or uninsured contractors.” Snider, 2018 ND at ¶ 13, 907 N.W.2d at 401.

[¶26] By failing to answer the Complaint and oppose the State’s motions for summary judgment: (1) Defendants DeRosier, Team Lawn, Vaughn Construction, and GPHQ admit that they violated N.D.C.C. § 51-15-02 by engaging in the business or acting in the capacity of a contractor without a license; (2) Defendants DeRosier, Team Lawn, and GPHQ admit that they violated N.D.C.C. § 51-15-02 by engaging in the business or acting in the capacity of a contractor while enjoined by court order;

and (3) Defendants DeRosier, Team Lawn, and GPHQ admit that they violated N.D.C.C. § 51-15-02 by submitting contractor license applications with false or misleading information. Supra, ¶ 6.

[¶27] Under N.D.C.C. § 51-15-07, the Attorney General may seek and obtain “an injunction prohibiting [a] person from continuing [an] unlawful practice or engaging in the [an] unlawful practice or doing any act in furtherance of the unlawful practice,” and the Court “may make an order or judgment as may be necessary to prevent the use or employment by a person of any unlawful practices ...” N.D.C.C. § 51-15-07. Pursuant to N.D.C.C. § 51-15-07, injunctive relief is necessary and appropriate in this case to prohibit Defendants from engaging in continued or future violations of N.D.C.C. § 51-15-02, and injunctive relief is justifiable under the circumstances of this case, particularly where Defendant DeRosier and two of his businesses violated the injunction ordered in Case No. 18-2019-CV-01907.

[¶28] Under N.D.C.C. § 51-15-07, the Court “may make an order or judgment ... to restore to any person in interest any money, or property that may have been acquired by means of any practice” unlawful under N.D.C.C. ch. 51-15. N.D.C.C. § 51-15-07. Defendants are liable to pay such restitution necessary to restore any loss suffered by persons because of his deceptive acts or practices, pursuant to N.D.C.C. § 51-15-07.

[¶29] Under N.D.C.C. § 51-15-10, the Court “shall award to the attorney general reasonable attorney’s fees, investigation fees, costs, and expenses of any

investigation and action brought” under N.D.C.C. ch. 51-15. N.D.C.C. § 51-15-10. Defendants are liable to pay the Attorney General for the fees and costs incurred in investigating and prosecuting this matter, pursuant to N.D.C.C. § 51-15-10.

[¶30] Under N.D.C.C. § 51-15-11, the Court “may assess for the benefit of the state a civil penalty of not more than five thousand dollars for each violation” of N.D.C.C. ch. 51-15. Civil penalties are appropriate in this case based on Defendants’ conduct. N.D.C.C. § 51-15-11.

[¶31] Pursuant to N.D.C.C. §§ 10-19.1-118(1), 10-32.1-98(1), and 51-15-07, it is appropriate to order the involuntary dissolution of Team Lawn, Inc., Vaughn Construction, Inc., and GPHQ, LLC for Defendant DeRosier’s use of the business entities to perpetrate consumer fraud. Pursuant to N.D.C.C. §§ 47-25-07(3) and 51-15-07, it is appropriate to cancel Team Lawn, Inc.’s trade name, “Team Lawn and Landscape,” for Defendant DeRosier’s use of the trade name to perpetrate consumer fraud.

ORDER FOR JUDGMENT

[¶32] THEREFORE, IT IS HEREBY ORDERED pursuant to N.D.C.C. § 51-15-02 *et seq.*:

A. Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ are adjudged in violation of the contractor law, N.D.C.C. § 43-07-02, for engaging in the business or acting in the capacity of a contractor in North Dakota without first having a license when the cost, value, or price per job exceeded the sum of four thousand dollars.

B. Defendants Nicholas James Morgan-DeRosier, Team Lawn, and GPHQ are adjudged in violation of the contractor law, N.D.C.C. § 51-15-02, for engaging in the business or acting in the capacity of a contractor in North Dakota while enjoined by court order.

C. Defendants Nicholas James Morgan-DeRosier, Team Lawn, and GPHQ are adjudged in violation of the consumer fraud law, N.D.C.C. § 51-15-02, for making a false or misleading statement in an application for a license or renewal in violation of N.D.C.C. § 43-07-14(1)(d).

D. Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ are adjudged in violation of the consumer fraud law, N.D.C.C. § 51-15-02, for engaging in deceptive acts or practices, fraud, false pretenses, false promises, or misrepresentations, with the intent that others rely thereon in connection with the sale or advertisement of merchandise in the State of North Dakota.

E. Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ, their agents, employees, representatives, assigns, and all other persons in active concert or participation with them, pursuant to N.D.C.C. § 51-15-07, are permanently enjoined and restrained from directly or indirectly making false statements, false promises, or misrepresentations and the act, use and employment of any deceptive acts or practices in connection with the advertisement or sale of merchandise, as defined by N.D.C.C. § 51-15-01(3), within the State of North Dakota.

F. Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ, their agents, employees, representatives, assigns, and all other persons in active concert or participation with them, pursuant to N.D.C.C. § 51-15-07, are permanently enjoined and restrained from engaging in deceptive acts or practices and from directly or indirectly making false statements, false promises, or misrepresentations in connection with the advertisement or sale of contracting and home improvements, repairs, or services, or any other merchandise, as defined by N.D.C.C. § 51-15-01(3).

G. Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ, their agents, employees, representatives, assigns and all other persons in active concert or participation with them, pursuant to N.D.C.C. § 51-15-07, are enjoined and restrained from the advertising or sale of contracting and home improvements, repairs, or services in accordance with Paragraph 32(H), *infra*.

H. Pursuant to N.D.C.C. § 51-15-07, Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ, their agents, employees, representatives, assigns, and all other persons in active concert or participation with them, are permanently enjoined and restrained from engaging in sales of contracting and home improvements, repairs, or services, including construction work. Notwithstanding the permanent injunction, Defendants may engage in future contracting services if Defendants apply to the Attorney General and the Court to lift the permanent injunction and the Court finds Defendants have fully complied with the following terms and conditions and otherwise are rehabilitated:

1. Ten or more years have expired since the entry of judgment herein;
2. Defendants have paid in full restitution to all consumers that have paid Defendants advance payments for services not performed or merchandise not delivered in the State of North Dakota; and
3. Defendants has paid all amounts owed to the State pursuant to entry of judgment herein.

If the Court thereafter finds, pursuant to an agreement between the Attorney General and Defendants, or after a hearing, that Defendants are sufficiently rehabilitated pursuant to the terms and conditions herein, Defendants, upon order of the Court, may engage in contracting provided they have obtained a Contractor License pursuant to N.D.C.C. ch. 43-07 and have complied with all contractor licensing or registration requirements appropriate and necessary for the work to be undertaken by them, including Workforce Safety and Insurance, Job Service North Dakota, and the North Dakota Dax Department.

“Pay in full” or “paid in full” mean that all amounts must be paid, and does not include any settlement, forgiveness, compromise, reduction, or discharge of any of the debts or refund obligations.

I. Plaintiff shall have Judgment against Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ, jointly and severally, in the amount of \$5,000.00 for civil penalties, pursuant to N.D.C.C. § 51-15-11.

J. Plaintiff shall have Judgment against Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ, jointly and severally, in the amount of \$3,071.00 for costs, expenses, and attorney's fees pursuant to N.D.C.C. § 51-15-10, incurred by the Attorney General in the investigation and prosecution of this action.

K. Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ, pursuant to N.D.C.C. § 51-15-07, shall pay restitution to all North Dakota consumers, which have suffered any ascertainable loss, and to restore to any person in interest any moneys or property, real or personal, which has been acquired by Defendant by means of any practice declared to be unlawful under N.D.C.C. § 51-15-02.

L. Pursuant to N.D.C.C. §§ 10-19.1-118(1)(e), 10-32.1-98(1), and 51-15-07, Defendants Team Lawn, Inc., Vaughn Construction, Inc., and GPHQ, LLC are ordered involuntarily dissolved and, pursuant to N.D.C.C. §§ 51-15-07 and 47-25-07(3), Team Lawn's trade name, "Team Lawn and Landscape," is ordered cancelled.

M. The Judgment entered shall be a Judgment for which execution may issue.

N. Interest shall accrue on this Judgment in accordance with the interest rate on judgment as provided by N.D.C.C. § 28-20-34.

BY THE COURT:

Signed: 6/24/2021 3:02:49 PM

John A. Thelen

District Court Judge

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,

Plaintiff,

-vs-

NICHOLAS JAMES MORGAN-
DEROSIER, et al.

Defendants.

Civil No. 18-2021-CV-00632

JUDGMENT

[¶1] This action came on before the Honorable John A. Thelen, Judge of the Grand Forks County District Court, Northeast Central Judicial District, on Motions for Summary Judgment, filed by Plaintiff, the State of North Dakota, on the relation of Wayne Stenehjem, Attorney General, and served upon Defendants by mail on April 30, 2021 and May 17, 2021. Defendants failed to respond in opposition to the State's Motions for Summary Judgment.

[¶2] The Court, having reviewed its file and records herein, including the Motions for Summary Judgment with supporting documents, and being fully advised in the premises, having made and entered its Findings of Fact, Conclusions of Law and Order for Summary Judgment; IT IS NOW ORDERED, ADJUDGED AND DECREED:

A. Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ are adjudged in violation of the contractor law, N.D.C.C. §

43-07-02, for engaging in the business or acting in the capacity of a contractor in North Dakota without first having a license when the cost, value, or price per job exceeded the sum of four thousand dollars.

B. Defendants Nicholas James Morgan-DeRosier, Team Lawn, and GPHQ are adjudged in violation of the contractor law, N.D.C.C. § 51-15-02, for engaging in the business or acting in the capacity of a contractor in North Dakota while enjoined by court order.

C. Defendants Nicholas James Morgan-DeRosier, Team Lawn, and GPHQ are adjudged in violation of the consumer fraud law, N.D.C.C. § 51-15-02, for making a false or misleading statement in an application for a license or renewal in violation of N.D.C.C. § 43-07-14(1)(d).

D. Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ are adjudged in violation of the consumer fraud law, N.D.C.C. § 51-15-02, for engaging in deceptive acts or practices, fraud, false pretenses, false promises, or misrepresentations, with the intent that others rely thereon in connection with the sale or advertisement of merchandise in the State of North Dakota.

E. Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ, their agents, employees, representatives, assigns, and all other persons in active concert or participation with them, pursuant to N.D.C.C. § 51-15-07, are permanently enjoined and restrained from directly or indirectly making false statements, false promises, or misrepresentations and the act, use and

employment of any deceptive acts or practices in connection with the advertisement or sale of merchandise, as defined by N.D.C.C. § 51-15-01(3), within the State of North Dakota.

F. Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ, their agents, employees, representatives, assigns, and all other persons in active concert or participation with them, pursuant to N.D.C.C. § 51-15-07, are permanently enjoined and restrained from engaging in deceptive acts or practices and from directly or indirectly making false statements, false promises, or misrepresentations in connection with the advertisement or sale of contracting and home improvements, repairs, or services, or any other merchandise, as defined by N.D.C.C. § 51-15-01(3).

G. Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ, their agents, employees, representatives, assigns and all other persons in active concert or participation with them, pursuant to N.D.C.C. § 51-15-07, are enjoined and restrained from the advertising or sale of contracting and home improvements, repairs, or services in accordance with Paragraph 32(H), *infra*.

H. Pursuant to N.D.C.C. § 51-15-07, Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ, their agents, employees, representatives, assigns, and all other persons in active concert or participation with them, are permanently enjoined and restrained from engaging in sales of contracting and home improvements, repairs, or services, including construction work. Notwithstanding the permanent injunction, Defendants may engage in future

contracting services if Defendants apply to the Attorney General and the Court to lift the permanent injunction and the Court finds Defendants have fully complied with the following terms and conditions and otherwise are rehabilitated:

1. Ten or more years have expired since the entry of judgment herein;
2. Defendants have paid in full restitution to all consumers that have paid Defendants advance payments for services not performed or merchandise not delivered in the State of North Dakota; and
3. Defendants has paid all amounts owed to the State pursuant to entry of judgment herein.

If the Court thereafter finds, pursuant to an agreement between the Attorney General and Defendants, or after a hearing, that Defendants are sufficiently rehabilitated pursuant to the terms and conditions herein, Defendants, upon order of the Court, may engage in contracting provided they have obtained a Contractor License pursuant to N.D.C.C. ch. 43-07 and have complied with all contractor licensing or registration requirements appropriate and necessary for the work to be undertaken by them, including Workforce Safety and Insurance, Job Service North Dakota, and the North Dakota Dax Department.

“Pay in full” or “paid in full” mean that all amounts must be paid, and does not include any settlement, forgiveness, compromise, reduction, or discharge of any of the debts or refund obligations.

I. Plaintiff shall have Judgment against Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ, jointly and

severally, in the amount of \$5,000.00 for civil penalties, pursuant to N.D.C.C. § 51-15-11.

J. Plaintiff shall have Judgment against Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ, jointly and severally, in the amount of \$3,071.00 for costs, expenses, and attorney's fees pursuant to N.D.C.C. § 51-15-10, incurred by the Attorney General in the investigation and prosecution of this action.

K. Defendants Nicholas James Morgan-DeRosier, Team Lawn, Vaughn Construction, and GPHQ, pursuant to N.D.C.C. § 51-15-07, shall pay restitution to all North Dakota consumers, which have suffered any ascertainable loss, and to restore to any person in interest any moneys or property, real or personal, which has been acquired by Defendant by means of any practice declared to be unlawful under N.D.C.C. § 51-15-02.

L. Pursuant to N.D.C.C. §§ 10-19.1-118(1)(e), 10-32.1-98(1), and 51-15-07, Defendants Team Lawn, Inc., Vaughn Construction, Inc., and GPHQ, LLC are ordered involuntarily dissolved and, pursuant to N.D.C.C. §§ 51-15-07 and 47-25-07(3), Team Lawn's trade name, "Team Lawn and Landscape," is ordered cancelled.

M. The Judgment entered shall be a Judgment for which execution may issue.

N. Interest shall accrue on this Judgment in accordance with the interest rate on judgment as provided by N.D.C.C. § 28-20-34.

CLERK OF DISTRICT COURT

Signed: 6/29/2021 2:49:58 PM

Luis A. Martiny, Deputy
