



OFFICE OF ATTORNEY GENERAL
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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-

MICHAEL JELLE, Individually, and
dba THE DRYER GUY

Respondent.

CPAT 110256.002

To the individual and entity identified below (hereinafter "Respondent"):

MICHAEL JELLE
403 WESTERN AVE.
MADDOCK, ND 58348

MICHAEL JELLE
DBA THE DRYER GUY
403 WESTERN AVE.
MADDOCK, ND 58348

(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 Respondent has engaged in and are engaging in acts or practices declared unlawful by 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, Michael Jelle, is a North Dakota resident, residing at 403 Western Avenue, Maddock, North Dakota.

3. Respondent, Michael Jelle is in the business of advertising, soliciting, and selling merchandise, including grain dryers and parts, to North Dakota residents.

4. Respondent Michael Jelle does business as "The Dryer Guy," and is engaged in direct marketing, solicitation and sale of merchandise, including grain dryers and parts. Michael Jelle also operates a website at www.dryerguy.com.

5. Respondent Michael Jelle dba "The Dryer Guy" (hereinafter "Respondent") has been the subject of a North Dakota consumer complaint alleging misleading or deceptive advertising and fraudulent business practices in connection with the advertisement and sale of merchandise as those terms are defined in N.D.C.C. § 51-15-01.

6. The Attorney General has received a complaint and other information alleging that Respondent, his agents, employees, or representatives, have taken advanced deposits for merchandise and failed to deliver the merchandise as promised. Allegations have been made that Respondent, his agents, employees, or representatives, have taken advanced down-payments in exchange for promises to

deliver merchandise without having the intent or ability to deliver the merchandise as promised.

7. The Attorney General has received information indicating that a number of North Dakota residents have been defrauded by Respondent's deceptive practices.

8. Allegations made against Respondent, through the consumer complaint and other information received by the Attorney General, include allegations that Respondent, his agents, employees, or representatives, by telephone and through written representations, in connection with the sale of merchandise, have made untrue, deceptive and misleading representations, and/or have made or engaged in deceptive acts or practices, fraud, false pretenses, false promises or misrepresentations with the intent that others rely thereon. The alleged deceptive practices include misrepresentations and false promises regarding purchase and delivery of merchandise, including time for delivery and Respondent's intent or ability to deliver, making false excuses for delay, failure to forward advanced payment to manufacturer, failure to order merchandise from manufacturer as promised, comingling of funds, and misappropriation of customer's payment.

9. The Attorney General has received information that Respondent has taken advanced deposits from six North Dakota residents equaling a total amount of \$192,743.78 without providing the merchandise as promised. It is alleged that Respondent has taken these advanced deposits without the intent or ability to provide the merchandise as promised, and that Respondent has fraudulently misused the advanced deposits received from their customers.

10. N.D.C.C. ch. 51-15 prohibits a person from engaging in 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.

11. Respondent is 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 the North Dakota's Consumer Fraud Law. In doing so, Respondent has committed acts in pursuit of the agreement and the agreement has proximately caused damage to North Dakota consumers.

12. Respondent is liable for his 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.'").

ORDER

NOW, THEREFORE, IT IS ORDERED pursuant to N.D.C.C. § 51-15-07 that Respondent, individually, and where applicable his officers, directors, owners, agents, servants, employees, contractors, 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 him, whether directly or indirectly, immediately **CEASE AND DESIST** from: 1) advertising, soliciting or selling merchandise to North Dakota residents; 2) soliciting or accepting advanced payments for merchandise; and 3) engaging in 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, in violation of N.D.C.C. ch. 51-15. Respondent also shall immediately **CEASE AND DESIST** from taking, collecting, charging, billing or accepting any payment from any North Dakota consumers, for any past or future sale of merchandise or other services related to the sale of merchandise.

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 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. 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.

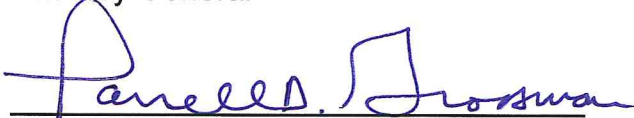
Dated this 8th day of November, 2011.

STATE OF NORTH DAKOTA

Wayne Stenehjem

Attorney General

BY:



Parrell D. Grossman, ID No. 04684

Assistant Attorney General

Director, Consumer Protection and
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