

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

IN DISTRICT COURT  
SOUTH CENTRAL JUDICIAL  
DISTRICT

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

Civil No. 08-2021-CV-01946

Petitioner,

-vs-

FARGO MOORHEAD DENTAL &  
DENTURES, P.C.; FARGO DENTAL  
SUPPORT, LLC; DP BUSINESS  
SERVICES, LLC; DAVID  
PENNINGTON, individually; CAROLYN  
BATES, individually; ROBERT BATES,  
DDS, individually; THERESA  
COLEMAN, individually; and KELSEA  
SCHWAB, individually;

ASSURANCE OF  
VOLUNTARY COMPLIANCE

Respondents.

CPAT 200023.003

**I. PARTIES**

[¶1] WHEREAS Wayne Stenehjem, Attorney General of the State of North Dakota (“Attorney General” or “Petitioner”), acts in the public interest pursuant to North Dakota Century Code (N.D.C.C.) ch. N.D.C.C. ch. 51-15, the Consumer Fraud Law.

[¶2] WHEREAS Respondent Fargo Moorhead Dental and Dentures, P.C. (“Fargo Moorhead Dental and Dentures”) is a domestic professional corporation with a principal address of 4302 13<sup>th</sup> Ave. S., Ste. 10, Fargo, ND 58103-3395. Fargo Moorhead

Dental and Dentures' registered agent is Cogency Global, Inc. located at 120 W. Sweet Ave., Ste. 9, Bismarck, ND 58504. Fargo Moorhead Dental & Dentures has engaged in or is engaging in the advertisement and sale of merchandise, as defined by N.D.C.C. § 51-15-01(1), in the State of North Dakota, including dental services.

[¶3] WHEREAS Respondent Fargo Dental Support, LLC ("Fargo Dental Support") is a domestic limited liability company with a principal address of 4302 13<sup>th</sup> Ave. S., Fargo, ND 58103-3395. Fargo Dental Support's registered agent is Cogency Global, Inc. located at 120 W. Sweet Ave., Ste. 9, Bismarck, ND 58504. Fargo Dental Support provided business support services and assistance to Fargo Moorhead Dental & Dentures during the time period when Fargo Moorhead Dental & Dentures engaged in the advertisement and sale of merchandise, as defined by N.D.C.C. § 51-15-01(1), in the State of North Dakota.

[¶4] WHEREAS Respondent DP Business Services, LLC ("DP Business Services") is a Florida limited liability company with a principal address of 111 Homeport Dr., Palm Harbor, FL 34683-5410. DP Business Dentures' registered agent is Cogency Global, Inc. located at 115 N. Calhoun St., Ste. 4, Tallahassee, FL 32301. DP Business Services provided business support services and assistance to Fargo Moorhead Dental & Dentures.

[¶5] WHEREAS Respondent David Pennington ("Pennington"), 111 Homeport Dr., Palm Harbor, FL 34683, owns or owned fifty percent (50%) of Fargo Dental Support. Pennington owns or owned and is or was employed by DP Business Services during the time period when DP Business Services provided business support services and assistance to Fargo Moorhead Dental & Dentures while Fargo Moorhead Dental &

Dentures engaged in the advertisement and sale of merchandise, as defined by N.D.C.C. § 51-15-01(1), in the State of North Dakota.

[¶6] WHEREAS Respondent Carolyn Bates (“Mrs. Bates”), 9615 Cobblestone Dr., Apt. C12, Clarence, NY 14031, is or was an employee of DP Business Services during the time period when DP Business Services provided business support services and assistance to Fargo Moorhead Dental & Dentures while Fargo Moorhead Dental & Dentures engaged in the advertisement and sale of merchandise, as defined by N.D.C.C. § 51-15-01(1), in the State of North Dakota.

[¶7] WHEREAS Respondent Robert Bates, D.D.S. (“Dr. Bates”), 9615 Cobblestone Dr., Apt. C12, Clarence, NY 14031, is or was the owner of Fargo Moorhead Dental & Dentures and owns or owned fifty percent (50%) of Fargo Dental Support while Fargo Moorhead Dental & Dentures engaged in the advertisement and sale of merchandise, as defined by N.D.C.C. § 51-15-01(1), in the State of North Dakota.

[¶8] WHEREAS Respondent Theresa Coleman (“Coleman”), 1789 Aurelius Rd, Holt, MI 48842, is or was an employee of DP Business Services during the time period when DP Business Services provided business support services and assistance to Fargo Moorhead Dental & Dentures while Fargo Moorhead Dental & Dentures engaged in the advertisement and sale of merchandise, as defined by N.D.C.C. § 51-15-01(1), in the State of North Dakota.

[¶9] WHEREAS Respondent Kelsea Schwab (“Schwab”), 13675 382<sup>nd</sup> Ave., Aberdeen, SD 57401-8746, is or was an employee of Fargo Dental Support during the time period when Fargo Dental Support provided business support services and assistance to Fargo Moorhead Dental & Dentures while Fargo Moorhead Dental &

Dentures engaged the advertisement and sale of merchandise, as defined by N.D.C.C. § 51-15-01(1), in the State of North Dakota.

[¶10] WHEREAS on August 1, 2021, those Respondents with an ownership interest in such entities sold the assets of Fargo Moorhead Dental & Dentures, Fargo Dental Support, and DP Business Services.

## **II. RECITALS**

[¶11] WHEREAS Petitioner alleges Respondent Fargo Moorhead Dental & Dentures, in violation of N.D.C.C. § 51-15-02, improperly charged service fees against patient accounts for services not actually provided to patients or that were not properly authorized or disclosed to patients in advance.

[¶12] WHEREAS Petitioner alleges Respondent Fargo Moorhead Dental & Dentures, in violation of N.D.C.C. § 51-15-02, improperly charged Interrupted Services Fees against patient accounts for services not actually provided to patients or that were not properly disclosed to patients in advance. Petitioner alleges that Respondent Fargo Moorhead Dental & Dentures improperly charged their patients at least \$188,048.00 for Interrupted Services Fees.

[¶13] WHEREAS Petitioner alleges Respondent Fargo Moorhead Dental & Dentures, in violation of N.D.C.C. § 51-15-02, improperly charged Follow Up/Admin Fees against patient accounts for communications that either were not made or for which such fees were not properly disclosed in advance. Petitioner alleges that Respondent Fargo Moorhead Dental & Dentures improperly charged its patients at least \$49,366.39 for Follow Up/Admin Fees.

[¶14] WHEREAS Petitioner alleges Respondents Fargo Dental Support, DP Business Services, Pennington, Mrs. Bates, Dr. Bates, Coleman, and Schwab provided assistance to Fargo Moorhead Dental & Dentures in violation of N.D.C.C. § 51-15-02.3.

[¶15] WHEREAS, pursuant to N.D.C.C. §§ 51-15-07, 51-15-10, and 51-15-11, Petitioner is entitled to equitable relief, including injunctive relief, civil penalties, and attorneys' fees and costs.

[¶16] WHEREAS Petitioner alleges Respondents are or were engaged in violations of N.D.C.C. ch. 51-15 and that, if proven after trial, Petitioner would be entitled to relief under N.D.C.C. §§ 51-15-07, 51-15-10, and 51-15-11.

[¶17] WHEREAS the Petitioner and Respondents desire to settle this matter without further litigation, investigation, or adjudication.

### III. AGREEMENT

[¶18] NOW, THEREFORE, it is hereby agreed as follows:

[¶19] Each Respondent, individually, acknowledges *in personam* jurisdiction in North Dakota.

[¶20] This Assurance of Voluntary Compliance shall constitute the statutory Assurance of Voluntary Compliance as provided in N.D.C.C. § 51-15-06.1 and that it does not waive any rights or private remedies available to consumers.

[¶21] Respondents do not admit that they violated N.D.C.C. §§ 51-15-02, 51-15-02.3, or any other provision of North Dakota law.

[¶22] Each Respondent, individually, voluntarily agrees to be and is permanently enjoined from the practice of, or assisting in the practice of, charging fees

against consumer accounts for services not provided to consumers or that were not authorized or properly disclosed to consumers in advance.

[¶23] Each Respondent, individually, agrees that, if they are engaged in the advertisement or sale of merchandise in the State of North Dakota, for the period of 24 months following acceptance of this Assurance of Voluntary Compliance by a court, the Attorney General may request, and they will provide, any records the Attorney General deems necessary or appropriate to monitor Respondents' compliance with the terms of this Assurance of Voluntary Compliance.

[¶24] Upon execution of this agreement, pursuant to N.D.C.C. §§ 51-15-10 and 51-15-11, Respondent Fargo Moorhead Dental & Dentures shall pay to the Attorney General the sum of Twenty-Five Thousand Dollars (\$25,000.00) for civil penalties, attorneys' fees, investigation costs, and expenses. This Assurance of Voluntary Compliance is null and void if valid payment is not paid at the time of execution of this agreement. Respondent Fargo Moorhead Dental & Dentures' payment shall be due upon execution of this agreement and shall be in the form of a check or money order postmarked on the date of execution of this agreement payable to:

**Office of Attorney General – North Dakota, and delivered to:**

Brian M Card  
Assistant Attorney General  
Consumer Protection & Antitrust Division  
Office of Attorney General  
Gateway Professional Center  
1050 E. Interstate Ave., Suite 200  
Bismarck, ND 58503-5574

[¶25] Upon execution of this agreement, pursuant to N.D.C.C. § 51-15-07, Respondent Fargo Moorhead Dental & Dentures shall also pay to the Attorney General

the sum of Two Hundred Thirty-Seven Thousand Four Hundred Fourteen Dollars and Thirty-Nine Cents (\$237,414.39) as consumer restitution for Interrupted Service Fees (\$188,048.00) and Follow Up/Admin Fees (\$49,366.39) charged to their patients. Respondent Fargo Moorhead Dental & Dentures' payment shall be subject to the terms of Paragraph 24, *supra*.

[¶26] Each Respondent, individually, agrees they will comply with this Assurance of Voluntary Compliance and further acknowledges and agrees violation of this Assurance of Voluntary Compliance is a violation of N.D.C.C. § 51-15-02, for which the Attorney General may seek civil penalties, attorneys' fees, investigation costs, and any other additional relief allowed by law. Further, any violation of this Assurance of Voluntary Compliance is also punishable as a contempt of court pursuant to N.D.C.C. ch. 27-10 and each Respondent, individually, is subject to all other civil penalties and sanctions provided by law, including attorneys' fees, investigation costs, and expenses.

[¶27] If any Respondent is adjudged in contempt of court for violation of this Assurance of Voluntary Compliance, adjudged in violation of this Assurance of Voluntary Compliance, or adjudged in violation of N.D.C.C. ch. 51-15, such Respondent shall be responsible for payment to the Attorney General for reasonable investigation costs, expenses, and attorneys' fees.

[¶28] In the event of a breach of this Assurance of Voluntary Compliance, the Attorney General may, without further notice to Respondents, apply to a State of North Dakota court so that any amount still owing under the Assurance of Voluntary Compliance may be entered as a formal judgment, filed on the judgment roll, and docketed pursuant to North Dakota law. *See* N.D.C.C. §§ 28-20-11, 28-20-12 and

28-20-13. Respondents agree that an Affidavit of Non-Compliance of the Office of Attorney General shall be *prima facie* evidence of each violation of this Assurance of Voluntary Compliance.

[¶29] Each Respondent, individually, represent the signer below is competent and fully authorized to act with respect to this matter. Each Respondent acknowledges he, she, or it has been provided the opportunity to review with an attorney this Assurance of Voluntary Compliance, understands the implications and obligations imposed by it, and has freely and willingly entered into this Assurance of Voluntary Compliance. Each Respondent agrees this Assurance of Voluntary Compliance may be approved by and filed with the District Court without any further notice or hearing. With respect to any and all actions taken with regard to this Assurance of Voluntary Compliance, each Respondent agrees to and acknowledges the sufficiency of service by facsimile and/or first-class mail at his or her last-known address.

[¶30] Signatures transmitted electronically or via facsimile by Respondents shall be deemed the equivalent of original signatures.

[¶31] This document may be executed in counterpart, with each counterpart deemed an original.



Dated this 15 day of October, 2021.

FARGO MOORHEAD DENTAL & DENTURES,  
P.C.

By:



Robert Bates

(print name)

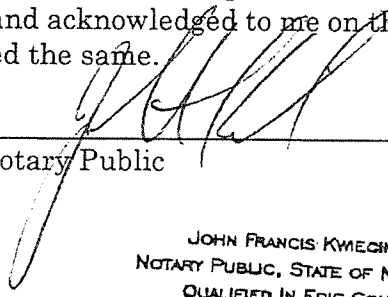
Its:

President

(title)

State of New York )  
 ) ss  
County of Erie )

Before me, a notary public, in and for said county and state, personally appeared Robert Bates and, known to me to be the person who is described in and executed the foregoing instrument, and acknowledged to me on the 15 day of October 2021, that s/he executed the same.

  
\_\_\_\_\_  
Notary Public

JOHN FRANCIS KWIECINSKI  
NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN ERIE COUNTY  
COMMISSION EXPIRES APRIL 8, 2023  
#01KW6238567

Dated this 18<sup>th</sup> day of Oct, 2021.

FARGO DENTAL SUPPORT, LLC

By: [Signature]

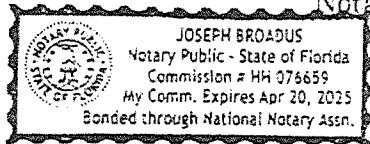
DAVID PENNINGTON  
(print name)

Its: Shareholder / DOO  
(title)

State of FLORIDA )  
 ) ss  
County of PINEHILLS )


Before me, a notary public, in and for said county and state, personally appeared DAVID PENNINGTON and, known to me to be the person who is described in and executed the foregoing instrument, and acknowledged to me on the 18 day of Oct 2021, that s/he executed the same.

[Signature]  
Notary Public



Dated this 18<sup>th</sup> day of Oct, 2021.

DP BUSINESS SERVICES, LLC


By: 

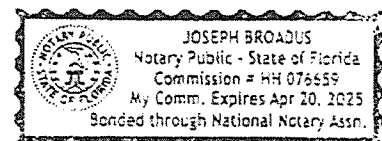
DAVID Pennington  
(print name)

Its: President  
(title)

State of FLORIDA )  
 ) ss  
County of PINEHURST )

Before me, a notary public, in and for said county and state, personally appeared DAVID PENNINGTON and, known to me to be the person who is described in and executed the foregoing instrument, and acknowledged to me on the 18 day of OCT 2021, that s/he executed the same.

  
Notary Public

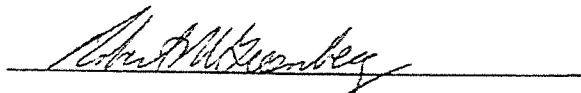


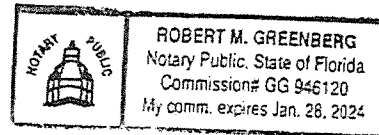
State of Florida Acknowledgement Notary Certificate

STATE OF FLORIDA  
COUNTY OF PINELLAS

On October 15, 2021, before me, Robert M Greenberg, a notary public, personally appeared by physical presence, David Pennington who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the attached Assurance of Voluntary Compliance: CPAT 200023.003 [name of document] instrument and acknowledged to me that that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or entity upon behalf of which the person(s) acted executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State listed above that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

Personally known            OR  
Produced identification X Type of identification produced: Florida Driver License

  
(Signature of notary public)



My commission expires: January 28, 2024

Official Seal



Dated this 18 day of October, 2021.

**CAROLYN BATES**

By: *Carolyn Bates*

Carolyn Bates  
(print name)

State of New York      )  
                                                                                                  ) ss  
County of Erie           )

Before me, a notary public, in and for said county and state, personally appeared Carolyn Bates and, known to me to be the person who is described in and executed the foregoing instrument, and acknowledged to me on the 18 day of October 2021, that she executed the same.

*Stephanie Winspear*  
Notary Public

STEPHANIE A WINSPEAR  
NOTARY PUBLIC STATE OF NEW YORK  
NIAGARA  
LIC. #01W16402642  
COMM. EXP. 01/06/2024



Dated this 15<sup>th</sup> day of OCTOBER, 2021.

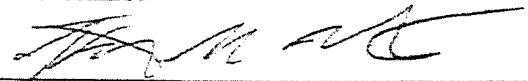
**THERESA COLEMAN**

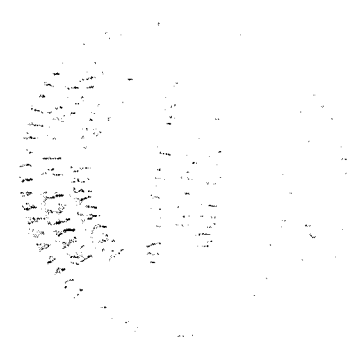
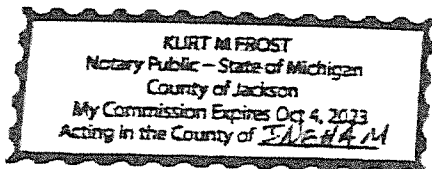
By: 

Theresa Coleman  
(print name)

State of MICHIGAN )  
County of INGHAM ) ss

Before me, a notary public, in and for said county and state, personally appeared Theresa Coleman and, known to me to be the person who is described in and executed the foregoing instrument, and acknowledged to me on the 15<sup>th</sup> day of OCTOBER 2021, that she executed the same.

  
Notary Public





Dated this 15 day of October, 2021.

KELSEA SCHWAB

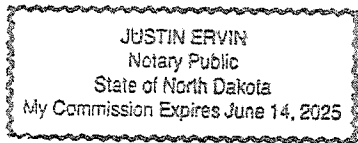
By: Kelsea Schwab

Kelsea Schwab  
(print name)

State of North Dakota )  
County of Cass ) ss

Before me, a notary public, in and for said county and state, personally appeared Kelsea Schwab and, known to me to be the person who is described in and executed the foregoing instrument, and acknowledged to me on the 15<sup>th</sup> day of October 2021, that she executed the same.

Justin Ervin  
Notary Public



This Assurance of Voluntary Compliance is hereby received and accepted.

Dated this 18 day of October, 2021.

**STATE OF NORTH DAKOTA**

Wayne Stenehjem

Attorney General

By:

  
\_\_\_\_\_  
Brian M Card

State ID No. 07917

Assistant Attorney General

Consumer Protection & Antitrust Division

Office of Attorney General

Gateway Professional Center

1050 E. Interstate Ave., Suite 200

Bismarck, ND 58503-5574

Telephone (701) 328-5570

Facsimile (701) 328-5568

bmc@nd.gov

Attorneys for Petitioner

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL  
DISTRICT

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

Civil No. 08-2021-CV-01946

Petitioner,

-vs-

FARGO MOORHEAD DENTAL &  
DENTURES, P.C.; FARGO DENTAL  
SUPPORT, LLC; DP BUSINESS  
SERVICES, LLC; DAVID  
PENNINGTON, individually; CAROLYN  
BATES, individually; ROBERT BATES,  
DDS, individually; THERESA  
COLEMAN, individually; and KELSEA  
SCHWAB, individually;

ORDER OF APPROVAL

Respondents.

CPAT 200023.003

[¶1] Pursuant to the authority of this Court provided in N.D.C.C. § 51-15-06.1, IT IS  
HEREBY ORDERED that the Assurance of Voluntary Compliance filed in this  
matter is approved as an assurance of voluntary compliance as specified in N.D.C.C.  
§ 51-15-06.1.

Signed: 10/19/2021 12:00:30 PM

[¶2] The Clerk of Court shall receive and file the Assurance of Voluntary Compliance.



\_\_\_\_\_  
Judge of the District Court