

STATE OF NORTH DAKOTA

IN DISTRICT COURT

BURLEIGH COUNTY

SOUTH CENTRAL JUDICIAL DISTRICT

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

Civil No. 08-2013-CV-01506

Petitioner,

**ASSURANCE OF  
VOLUNTARY COMPLIANCE**

-vs-

**BLAIN OVIND** doing business as **OVIND  
CONSTRUCTION**

Respondent

CPAT# 940806.005

TO: Blain Ovind  
1101 23rd St SE  
Mandan, ND 58554

1. WHEREAS Wayne Stenehjem, Attorney General of the State of North Dakota (Attorney General), acts in the public interest pursuant to North Dakota Century Code (N.D.C.C.) ch. 51-15, (commonly known as the Consumer Fraud Law), and N.D.C.C. ch. 43-07 (commonly known as the Contractors Law);

2. WHEREAS Blain Ovind doing business as Ovind Construction is engaged in the business of soliciting and selling merchandise, as that term is defined in N.D.C.C. § 51-15-01, in the State of North Dakota, namely providing contracting services, including but not limited to, remodeling homes;

3. WHEREAS Petitioner alleges Respondent has conducted sales in North Dakota that are not in compliance with N.D.C.C. ch. 51-15, namely accepting advance deposits for home remodeling projects, and then failing to finish the project.

4. WHEREAS the parties desire to settle this matter without further litigation and without any admission of liability by Respondent.

5. NOW, THEREFORE, it is hereby agreed as follows:

6. This Assurance of Voluntary Compliance shall constitute the statutory Assurance of Discontinuance as provided in N.D.C.C. § 51-15-06.1. Respondent acknowledges *in personam* jurisdiction in North Dakota and agrees the forum of any action in connection with this agreement shall be in the State courts of North Dakota. Nothing in this Assurance of Voluntary Compliance is, or may be represented as, an approval or endorsement of Respondent or his business practices, nor a grant of any affirmative right to Respondent. Nothing in this Assurance of Voluntary Compliance is intended to waive any rights or private remedies available to consumers.

7. Respondent, his agents, employees, representatives, assigns and all other persons in active concert or participation with him agree to not engage in any deceptive sales practices or make any false or misleading statements in connection with the advertisement or sale of merchandise, as that term is defined in N.D.C.C. ch. 51-15-01, in the state of North Dakota, including soliciting and accepting advance deposits for home remodeling projects, and then failing to finish the project.

8. Respondent, his agents, employees, representatives, assigns and all other persons in active concert or participation with him voluntarily agree and are enjoined and restrained from operating, participating, or engaging in any home improvement business or any other contracting business and from having a contractor's license pursuant to N.D.C.C. ch. 43-07 until: 1) Respondent has provided a refund to the consumers listed in paragraphs 17-18; 2) has either finished the consumers projects or provided a refund to the consumers listed in paragraphs 11-16; 3) Respondent has paid all of the

subcontractors, including, but not limited to, North Central Service, Inc., that he owes money to for consumers' projects; and 4) Respondent has paid Petitioner the amount agreed to in paragraph twenty three (23) of this agreement. Provided, however, the injunction is first lifted by the Court after the Attorney General agrees or the Court determines that Respondent has: 1) provided a refund to the consumers listed in paragraphs 17-18; 2) either finished the consumers projects or has provided a refund to consumers listed in paragraphs 11-16; 3) paid all of the subcontractors, including, but not limited to, North Central Service, Inc., that he owes money to for consumers' projects; and 4) Respondent has paid Petitioner the amount agreed to in paragraph twenty three (23) of this agreement.

9. Provided the Court has lifted the injunction ordered in paragraph 8, Respondent his agents, employees, representatives, assigns and all other persons in active concert or participation with him are permanently enjoined and restrained, pursuant to N.D.C.C. § 51-15-07, from engaging in sales of contracting and home improvements, repairs, or services, in the state of North Dakota unless Respondent has obtained a current contractor's license pursuant to N.D.C.C. ch. 43-07 and has complied with all contractor licensing requirements appropriate and necessary for the work to be undertaken by him, or Respondent is employed and supervised by a company or individual who has a Contractor's License, or Respondent is otherwise authorized by state law to provide services to improve real property in the state of North Dakota.

10. Respondent, his agents, employees, representatives, assigns and all other persons in active concert or participation with him voluntarily agree and are enjoined and restrained from soliciting or accepting from consumers advance payments or deposits, which exceed the sum of the costs of the materials for the project and ten percent (10%) of

the total contract price. Any funds received for materials must immediately be used to pay for the consumer's materials, and shall not be used to pay any other expenses, including, but not limited to, Respondent's personal or business expenses.

11. Respondent agrees to finish Genevieve Tompers's, PO Box 4195, Minot, ND 58702, home improvement project, including, but not limited to, installing her cupboards, sinks, flooring, steps, railing, doors, and any other unfinished work, within ninety (90) days of executing this Assurance of Voluntary Compliance. If Respondent does not completely finish the project within ninety (90) days of executing this Assurance of Voluntary Compliance, then Respondent agrees to provide a refund to the Genevieve Tompers for the unfinished work and agrees and consents to entry of a monetary judgment against him for the amount he owes to Genevieve Tompers for the unfinished work. The Attorney General may thereafter assign this amount to Genevieve Tompers. Respondent agrees that an Affidavit of Non-Compliance of the Office of Attorney General shall be *prima facie* evidence of the amount Respondent owes to Genevieve Tompers for the unfinished work. Respondent agrees to pay, within ninety (90) days of executing this Assurance of Voluntary Compliance, any subcontractor who performed work on Genevieve Tompers's project and has not been paid.

12. Respondent agrees to finish Monica McLeod's, 125 28th St SW, Minot, ND 58701, home improvement project within ninety (90) days of executing this Assurance of Voluntary Compliance. If Respondent does not completely finish the project within ninety (90) days of executing this Assurance of Voluntary Compliance, then Respondent agrees to provide a refund to Monica McLeod for the unfinished work and agrees and consents to entry of a monetary judgment against him for the amount he owes to Monica McLeod for the unfinished work. The Attorney General may thereafter assign this amount to Monica

McLeod. Respondent agrees that an Affidavit of Non-Compliance of the Office of Attorney General shall be *prima facie* evidence of the amount Respondent owes to Monica McLeod for the unfinished work. Respondent agrees to pay, within ninety (90) days of executing this Assurance of Voluntary Compliance, any subcontractor who performed work on Monica McLeod's project and has not been paid.

13. Respondent agrees to finish Lisa Patton's, 716 1st Ave W, Williston, ND 58801, home improvement project within ninety (90) days of executing this Assurance of Voluntary Compliance. If Respondent does not completely finish the project within ninety (90) days of executing this Assurance of Voluntary Compliance, then Respondent agrees to provide a refund to Lisa Patton for the unfinished work and agrees and consents to entry of a monetary judgment against him for the amount he owes to Lisa Patton for the unfinished work. The Attorney General may thereafter assign this amount to Lisa Patton. Respondent agrees that an Affidavit of Non-Compliance of the Office of Attorney General shall be *prima facie* evidence of the amount Respondent owes to Lisa Patton for the unfinished work. Respondent agrees to pay, within ninety (90) days of executing this Assurance of Voluntary Compliance, any subcontractor who performed work on Lisa Patton's project and has not been paid.

14. Respondent agrees to finish Greg Jordahl, 230 Minnie Ave, Wilton, ND 58579, home improvement project within ninety (90) days of executing this Assurance of Voluntary Compliance. If Respondent does not completely finish the project within ninety (90) days of executing this Assurance of Voluntary Compliance, then Respondent agrees to provide a refund to Greg Jordahl for the unfinished work and agrees and consents to entry of a monetary judgment against him for the amount he owes to Greg Jordahl for the unfinished work. The Attorney General may thereafter assign this amount to Greg

Jordahl. Respondent agrees that an Affidavit of Non-Compliance of the Office of Attorney General shall be *prima facie* evidence of the amount Respondent owes to Greg Jordahl for the unfinished work. Respondent agrees to pay, within ninety (90) days of executing this Assurance of Voluntary Compliance, any subcontractor who performed work on Greg Jordahl's project and has not been paid.

15. Respondent agrees to finish Elizabeth Gillum's remodeling project within ninety (90) days of executing this Assurance of Voluntary Compliance. If Respondent does not completely finish the project within ninety (90) days of executing this Assurance of Voluntary Compliance, then Respondent agrees to provide a refund to Elizabeth Gillum for the unfinished work and agrees and consents to entry of a monetary judgment against him for the amount he owes to Elizabeth Gillum for the unfinished work. The Attorney General may thereafter assign this amount to Elizabeth Gillum. Respondent agrees that an Affidavit of Non-Compliance of the Office of Attorney General shall be *prima facie* evidence of the amount Respondent owes to Elizabeth Gillum for the unfinished work. Respondent agrees to pay, within ninety (90) days of executing this Assurance of Voluntary Compliance, any subcontractor who performed work on Elizabeth Gillum's project and has not been paid.

16. Respondent agrees to finish Tom Ketterling's, 110 Zeller Avenue SE, Heil, ND 58533, home remodeling project within ninety (90) days of executing this Assurance of Voluntary Compliance. If Respondent does not completely finish the project within ninety (90) days of executing this Assurance of Voluntary Compliance, then Respondent agrees to provide a refund to Tom Ketterling for the unfinished work and agrees and consents to entry of a monetary judgment against him for the amount he owes to Tom Ketterling for the unfinished work. The Attorney General may thereafter assign this

amount to Tom Ketterling. Respondent agrees that an Affidavit of Non-Compliance of the Office of Attorney General shall be *prima facie* evidence of the amount Respondent owes to Tom Ketterling for the unfinished work. Respondent agrees to pay, within ninety (90) days of executing this Assurance of Voluntary Compliance, any subcontractor who performed work on Tom Ketterling's project and has not been paid.

17. Respondent agrees that he owes restitution in the amount of \$23,145 to Stacy Norton, 1325 27th St SE #175, Minot, ND 58701, for not finishing her home remodeling project, and agrees to provide her a refund within ninety (90) days of executing this Assurance of Voluntary Compliance. If Respondent does not refund Stacy Norton within ninety (90) days of executing this Assurance of Voluntary Compliance, then Respondent agrees and consents to entry of a monetary judgment in the amount of \$23,145. The Attorney General may thereafter assign this amount to Stacy Norton. Respondent agrees that an Affidavit of Non-Compliance of the Office of Attorney General shall be *prima facie* evidence of the amount Respondent owes to Stacy Norton for not finishing her home remodeling project. Respondent agrees to pay, within ninety (90) days of executing this Assurance of Voluntary Compliance, any subcontractor who performed work on Stacy Norton's project and has not been paid.

18. Respondent agrees that he owes restitution in the amount of \$18,300 to John Salling and Lorenda Poinssant-Salling, 500 36th St. SW, Minot, ND 58701, for not finishing their home remodeling project, and agrees to provide them a refund within ninety (90) days of executing this Assurance of Voluntary Compliance. If Respondent does not refund John Salling and Lorenda Poinssant-Salling within ninety (90) days of executing this Assurance of Voluntary Compliance, then Respondent agrees and consents to entry of a monetary judgment in the amount of \$18,300. The Attorney General may thereafter

assign this amount to John Salling and Lorenda Poinssant-Salling. Respondent agrees that an Affidavit of Non-Compliance of the Office of Attorney General shall be *prima facie* evidence of the amount Respondent owes to John Salling and Lorenda Poinssant-Salling for not finishing their home remodeling project. Respondent agrees to pay, within ninety (90) days of executing this Assurance of Voluntary Compliance, any subcontractor, including, but not limited to, North Central Service, Inc., who performed work on their project and has not been paid.

19. Respondent agrees to pay, within ninety (90) days of executing this Assurance of Voluntary Compliance, any subcontractor, including, but not limited to, North Central Service, Inc., who performed work on Ritsuko Lander's, 100 19th St. SE, Minot, ND 58701, project and has not paid.

20. Respondent acknowledges that the consumers listed in paragraphs 11-19 are the only unfinished projects that Respondent has pending. Respondent agrees that if there are any other consumers that Respondent has failed to identify or disclose, then each consumer Respondent failed to disclose is considered a violation of N.D.C.C. § 51-15-02 and the Attorney General may rescind this Assurance of Voluntary Compliance and render it invalid. The Attorney General may then pursue legal action against Respondent concerning Respondent's business activities with any North Dakota consumer, regardless of whether they have been disclosed to the Attorney General or are included in this Assurance of Voluntary Compliance.

21. Respondent agrees that any North Dakota consumers that have not been identified or disclosed by Respondent, nonetheless, shall be subject to the relief provided herein, including being provided a refund for any unfinished work on their home improvement project. The parties stipulate and agree that the Attorney General can apply



to the court to amend this Assurance of Voluntary Compliance in the event that there are customers that have not been properly identified.

22. Provided the Court has lifted the injunction ordered in paragraph 8, Respondent agrees to open and maintain a separate bank account for consumer deposits, and voluntarily agrees to be permanently enjoined and restrained from using any of the funds in this new bank account for his personal expenses.

23. Respondent shall pay, within ninety (90) days, the Attorney General the sum of Five Hundred and No/100 Dollars (\$500) in lieu of civil penalties for reimbursement of attorney's fees, investigations costs, and expenses. Respondent's payment shall be in the form of a check or money order payable to:

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

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

If Respondent does pay the Attorney General the sum of Five Hundred and No/100 Dollars (\$500) within ninety (90) days of executing this Assurance of Voluntary Compliance, then Respondent agrees and consents to entry of a monetary judgment in the amount of Five Hundred and No/100 Dollars (\$500) for the benefit of the Attorney General against Respondent in lieu of civil penalties for reimbursement of attorney's fees, investigations costs, and expenses.

24. Respondent, upon the request of the Attorney General, shall provide verification, within ten (10) days of the Attorney General's request and in a form

acceptable to the Attorney General, that Respondent has complied with this Assurance of Voluntary Compliance.

25. Respondent agrees he will comply with this Assurance of Voluntary Compliance and further acknowledges and agrees any violations of this Assurance of Voluntary Compliance shall be punishable as contempt of court pursuant to N.D.C.C. ch. 27-10. Further Respondent may be subject to all other civil penalties and sanctions provided by law, including attorney's fees. In addition, Respondent agrees to pay a civil penalty of at least \$1,000 per violation for any violations of this Assurance of Voluntary Compliance, or any future violations of N.D.C.C. ch. 51-15; provided, however, the Attorney General shall not be precluded from seeking more than \$1,000 per violation, or any other remedies provided in North Dakota law.

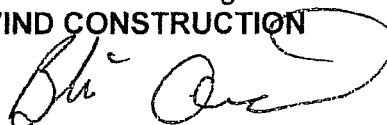
26. If Respondent is adjudged in contempt of court for violations of this Assurance of Voluntary Compliance, adjudged in violation of this Assurance of Voluntary Compliance, or adjudged in violation of N.D.C.C. ch. 51-15, Respondent shall also be responsible for payment to the Attorney General for reasonable investigation costs, expenses, and attorney's fees.

27. In the event of a breach of this Assurance of Voluntary Compliance, the Attorney General may, without further notice to Respondent, make application to a State of North Dakota District Court to have the entire amount owing under the Assurance of Voluntary Compliance, including any amounts due in paragraphs 11-19 and 23, entered as a formal judgment so it may be 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. Respondent agrees 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.

28. Respondent represents the signer below is competent and fully authorized to act with respect to this matter. Respondent acknowledges he 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. Respondent further agrees this Assurance of Voluntary Compliance may be approved by and filed with the District Court without any further notice or hearing. Respondent agrees to and acknowledges the sufficiency of service by facsimile, and/or first-class mail at his last-known address, with respect to any and all actions taken with regard to this Assurance of Voluntary Compliance. Signatures transmitted electronically or via facsimile by Respondent shall be deemed the equivalent of original signatures; this document may be executed in counterparts, with each counterpart deemed an original.

Dated this 3 day of July, 2013.

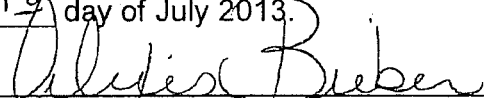
**BLAIN OVIND** doing business as  
**OVIND CONSTRUCTION**

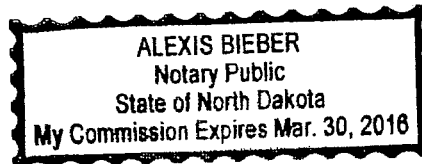


Blain Ovind

STATE OF NORTH DAKOTA    )  
COUNTY OF Burleigh    ) ss

Subscribed and sworn to before me this  
3<sup>rd</sup> day of July 2013.

  
Notary Public



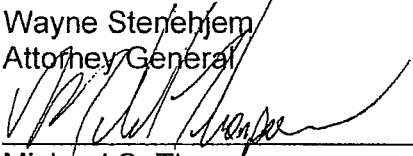
This Assurance of Voluntary Compliance is hereby received and accepted.

Dated this 3<sup>rd</sup> day of July, 2013.

**STATE OF NORTH DAKOTA**

Wayne Stenehjem  
Attorney General

By:

  
\_\_\_\_\_  
Michael C. Thompson,  
State ID No. 06550  
Assistant Attorney General  
Office of Attorney General  
Consumer Protection & Antitrust Division  
Gateway Professional Center  
1050 E. Interstate Ave., Suite 200  
Bismarck, ND 58503-5574  
Telephone (701) 328-5570  
Facsimile (701) 328-5568

Attorneys for Petitioner

STATE OF NORTH DAKOTA

IN DISTRICT COURT

BURLEIGH COUNTY

SOUTH CENTRAL JUDICIAL DISTRICT

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

Civil No. 08-2013-CV-01506

**JUDGMENT**

Petitioner,

-VS-

**BLAIN OVIND** doing business as **OVIND  
CONSTRUCTION**

Respondent

CPAT# 940806.005

1. This action having been presented to the Court and the Court having ordered that Judgment be entered for the Office of Attorney General against Blain Ovind doing business as Ovind Construction;

2. IT IS ORDERED, ADJUDGED AND DECREED that judgment is hereby entered in favor of the Office of Attorney General against Blain Ovind doing business as Ovind Construction in the total amount **\$148,890.00**. The Office of Attorney General may collect interest after the date of entry of judgment at the rate of 6.5% per annum pursuant to N.D.C.C. § 28-20-34.

3. Judgment entered this 28<sup>th</sup> day of January, 2014, at Bismarck, North Dakota.

**CLERK OF DISTRICT COURT**

Debra Simenson  
Debra Simenson

RECEIVED & FILED

By: \_\_\_\_\_

JAN 28 2014

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Cik. of Crt. Burleigh Co.

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Burleigh County, ND  
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STATE OF NORTH DAKOTA

IN DISTRICT COURT

BURLEIGH COUNTY

SOUTH CENTRAL JUDICIAL DISTRICT

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

Civil No. 08-2013-CV-01506

Petitioner,

**ORDER FOR JUDGMENT**

-vs-

**BLAIN OVIND** doing business as **OVIND  
CONSTRUCTION**

Respondent

CPAT# 940806.005

1. Pursuant to paragraphs 12-14, 16-18, 23, and 27 of the Assurance of Voluntary Compliance approved by this Court on July 8, 2013 and all other papers on file in this case:

2. IT IS HEREBY ORDERED that monetary judgment shall be entered in favor of the Office of Attorney General against Blain Ovind doing business as Ovind Construction as follows:

- a. Consumer restitution for the benefit of Monica McLeod in the amount of \$80,000;
- b. Consumer restitution for the benefit of Lisa Patton in the amount of \$14,500;
- c. Consumer restitution for the benefit of Greg Jordahl in the amount of \$8,000;
- d. Consumer restitution for the benefit of Tom Ketterling in the amount of \$4,445;
- e. Consumer restitution for the benefit of Stacy Norton in the amount of \$23,145;

RECEIVED & FILED

JAN 28 2014

Clerk of Crt. Burleigh Co.  
Filed - Clerk of District Court  
1/23/2014 3:48:22 PM  
Burleigh County, ND

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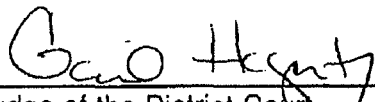
- f. Consumer restitution for the benefit of John Salling and Lorenda Poinssant-Salling in the amount of \$18,300;
- g. Payment in the amount of \$500 to the Attorney General in lieu of civil penalties for reimbursement of attorney's fees, investigations costs, and expenses.

3. IT IS FURTHER ORDERED that the Office of Attorney General may collect interest after the date of entry of judgment at the rate determined by N.D.C.G. § 28-20-34.

4. LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated this 24 day of Jan, 2014.

**BY THE COURT:**

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

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