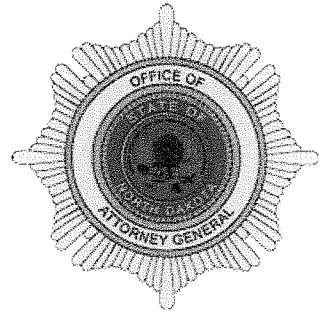




OFFICE OF ATTORNEY GENERAL
CONSUMER PROTECTION AND ANTITRUST DIVISION
GATEWAY PROFESSIONAL CENTER
1050 E INTERSTATE AVENUE, STE 200
BISMARCK, NORTH DAKOTA 58503-5574



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-

SCOTT ASHBY doing business as
WESTERN WATERWORKS

Respondent.

CPAT # 130211.004

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

Scott Ashby
716 S Main
PO Box 89
New England, ND 58647-0089
and
4312 127th Place SE
Everett, WA 98208-9024
701-300-0058

(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 or is engaging in acts or practices declared unlawful by

N.D.C.C. ch. 51-15, commonly referred to as the “Consumer Fraud Law,” and N.D.C.C. ch. 43-07, commonly referred to as the “Contractors Law.” It is necessary and appropriate in the public interest and for the protection of consumers to restrain Respondent’s unlawful acts or practices.

2. Respondent Scott Ashby, doing business as Western Waterworks, has engaged in advertising and soliciting the sale of merchandise, including but not limited to, contracting services to install sprinklers. Respondent engaged in contracting business and acted in the capacity of a contractor when the cost, value, or price of the job exceeded the sum of two thousand dollars. During this time, Respondent did not have a contractor’s license as required by N.D.C.C. ch. 43-07.

3. The Attorney General’s Consumer Protection Division began an investigation into Respondent’s business practices after receiving a complaint from a consumer that Respondent had contracted with to install a sprinkler system for \$3,500. Respondent solicited and accepted an advance deposit in the amount of \$1,750. Respondent dug the holes for the valves and installed the pipes. However, Respondent never returned to finish the project. Additionally, the Attorney received information from a general contractor that had hired Respondent to install a sprinkler system for \$6,800. The general contractor alleged that Respondent had used the wrong valves and failed to properly install the system.

4. In July 2013, the Attorney General took legal action against Respondent for his unlicensed contracting work. Respondent paid a fine and agreed that he would obtain a contractor’s license before doing any more contracting work in North Dakota. However, Respondent violated the agreement in July 2014, and agreed to pay another fine. Local law enforcement has now informed the Attorney General’s

Office that Respondent lives out of his car and appears to no longer be in North Dakota. Respondent does not answer his telephone, and has stopped communicating with the Attorney General's Office.

5. Respondent has made untrue, deceptive and misleading representations, and/or has made or engaged in deceptive acts or practices, fraud, false pretenses, false promises or misrepresentations with the intent that others rely thereon, in violation of N.D.C.C. ch. 51-15, the Consumer Fraud Law, including but not limited to, expressly, impliedly, or by omission of a material fact, misrepresenting to consumers that Respondent was legally authorized to conduct contracting services in North Dakota when, in fact, Respondent did not have a contractor's license as required by N.D.C.C. ch. 43-07.

6. Respondent has made untrue, deceptive and misleading representations, and/or has made or engaged in deceptive acts or practices, fraud, false pretenses, false promises or misrepresentations with the intent that others rely thereon, in violation of N.D.C.C. ch. 51-15, the Consumer Fraud Law, including but not limited to, expressly, impliedly, or by omission of a material fact, misrepresenting to consumers that when he solicited and accepted their advanced payments that he would complete the work promised, and Respondent failed to do so.

7. Respondent has operated as a contractor in the state of North Dakota and has acted in the capacity of a contractor when the cost, value, or price of the job exceeded the sum of \$2,000. Respondent is not licensed as a contractor and it appears that Respondent has engaged in contracting activity in North Dakota without obtaining the required contractor's license pursuant to N.D.C.C. ch. 43-07.

ORDER

8. Based upon the foregoing information, it appears to the Attorney General that Respondent has engaged in violations of N.D.C.C. chs. 51-15 and 43-07; **NOW, THEREFORE, IT IS ORDERED** pursuant to N.D.C.C. § 51-15-07 that Respondent immediately **CEASE AND DESIST** from: 1) soliciting, advertising, selling, or providing in North Dakota any contracting services or merchandise, including, but not limited to, installing sprinklers, and all other services and/or merchandise as defined in N.D.C.C. § 51-15-01(3); 2) soliciting using untrue, deceptive or misleading representations to consumers or engaging in deceptive acts or practices, fraud, false pretenses, false promises or misrepresentations with the intent that consumers rely thereon, in violation of N.D.C.C. § 51-15-02; 3) soliciting or accepting from consumers advance payments or consumer deposits in connection with any sale of merchandise, as defined by N.D.C.C. § 51-15-01(3); and 4) providing contracting services in North Dakota in violation of N.D.C.C. ch. 43-07. Respondent also shall immediately **CEASE AND DESIST** from issuing any invoices or bills to North Dakota consumers for the sale of contracting 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 contracting services or merchandise or other services and/or merchandise as defined in N.D.C.C. § 51-15-01(3).

9. **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

10. **YOU, SCOTT ASHBY, 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. Any violation of this Order that also is a violation of N.D.C.C. ch. 43-07 may result in additional civil penalties of not more than \$5,000 per violation and is a Class A misdemeanor. Such penalties are separate and in addition to any civil penalties, costs, expenses, investigation fees, and attorney fees pursuant to N.D.C.C. chs. 51-15, 43-07 or any other applicable statute. 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

11. **YOU, SCOTT ASHBY, 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, at the Respondent's expense.

Dated this 29th day of September, 2015.

STATE OF NORTH DAKOTA

Wayne Stenehjem

Attorney General

BY:



Parrell D. Grossman, ID No. 04684

Assistant Attorney General

Director

Consumer Protection and
Antitrust Division

Office of Attorney General

Gateway Professional Center

1050 E. Interstate Ave., Suite 200

Bismarck, ND 58503-5574

(701) 328-3404

STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

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

Petitioner,

-vs-

SCOTT ASHBY doing business as
WESTERN WATERWORKS

Respondent.

**AFFIDAVIT OF SERVICE
BY CERTIFIED MAIL AND
FIRST CLASS MAIL**

CPAT # 130211.004

STATE OF NORTH DAKOTA)
) ss
COUNTY OF BURLEIGH)

1. Alexis Bieber states under oath as follows:
2. I swear and affirm upon penalty of perjury that the statements made in this affidavit are true and correct and made upon personal knowledge.
3. I am of legal age and on the 29th day of September, 2015, I served (1) CEASE AND DESIST ORDER, NOTICE OF CIVIL PENALTY AND NOTICE OF RIGHT TO REQUEST A HEARING, and (2) AFFIDAVIT OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL upon the following by placing a true and correct copies thereof in an envelope addressed as follows:


FIRST CLASS MAIL
SCOTT ASHBY
716 S MAIN
PO BOX 89
NEW ENGLAND ND 58647-0089

RETURN RECEIPT # 7013 1090 0000 5841 4500
SCOTT ASHBY
716 S MAIN
PO BOX 89
NEW ENGLAND ND 58647-0089


FIRST CLASS MAIL
SCOTT ASHBY
4312 127TH PLACE SE
EVERETT WA 98208-9024

RETURN RECEIPT # 7013 1090 0000 5841 4517
SCOTT ASHBY
4312 127TH PLACE SE
EVERETT WA 98208-9024

and depositing the same, with postage prepaid, in the United States mail at Bismarck,
North Dakota.


ALEXIS BIEBER

Subscribed and sworn to before me
this 29th day of September, 2015.


NOTARY PUBLIC

G:\CPATNODAKI\WESTERN WATERWORKS\2ND ACTION\ASM-C&D 092915.DOCX

