

STATE OF NORTH DAKOTA
COUNTY OF STUTSMAN

IN DISTRICT COURT
SOUTHEAST JUDICIAL DISTRICT

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

Plaintiff,

-vs-

JEREMIAH BJERKE, doing business as
FROGGIEZ PAINTING & MORE,

Defendant.

Civil No. 47-2016-CV-00375

SUMMARY JUDGMENT

CPAT 160075.001

[¶1] This action came on before the Honorable John Greenwood, Judge of the Stutsman County District Court, Southeast Judicial District, on a Motion for Summary Judgment, filed by Plaintiff, the State of North Dakota, on the relation of Wayne Stenehjem, Attorney General, and served upon Defendant by mail on September 13, 2016. Defendant failed to respond or otherwise appear in opposition to the Motion for Summary Judgment.

[¶2] The Court, having reviewed its file and records herein, including the Motion 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. Plaintiff's Motion for Summary Judgment is granted.
- b. That Defendant Jeremiah Bjerke be 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.

c. That Defendant Jeremiah Bjerke, his agents, employees, representatives, assigns, and all other persons in active concert or participation with him, pursuant to N.D.C.C. § 51-15-07, be 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.

d. That Defendant Jeremiah Bjerke, his agents, employees, representatives, assigns, and all other persons in active concert or participation with him, pursuant to N.D.C.C. § 51-15-07, be 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).

e. That Defendant Jeremiah Bjerke, his agents, employees, representatives, assigns and all other persons in active concert or participation with him, pursuant to N.D.C.C. § 51-15-07, be enjoined and restrained from the advertising or sale of contracting and home improvements, repairs, or services for a period of five (5) years and until Defendant refunds and pays in full amounts owed to all North Dakota consumers that have paid Defendant advance payments for services not performed or merchandise not delivered. "Pay in full" means 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.

f. That, after five (5) years from entry of judgment and until Defendant Jeremiah Bjerke refunds and pays in full amounts owed to all consumers listed above and any other North Dakota consumers that have paid Defendant advance payments for services not performed or merchandise not delivered, Defendant Jeremiah Bjerke, his agents, employees, representatives, assigns, and all other persons in active concert or participation with him, pursuant to N.D.C.C. § 51-15-07, be permanently enjoined and restrained from engaging in sales of contracting and home improvements, repairs, or services, including construction work, in the state of North Dakota unless Jeremiah Bjerke has obtained a 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. "Pay in full" means 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.

g. That, for a period of ten (10) years from entry of judgment, the Defendant Jeremiah Bjerke, his agents, employees, representatives, assigns, and all other persons in active concert or participation with him, pursuant to N.D.C.C. § 51-15-07, be enjoined and restrained from soliciting or accepting from consumers advance payments or consumer deposits in excess of ten percent of the total contract price in connection with any sale of merchandise, as defined by N.D.C.C. § 51-15-01(3).

h. That Plaintiff shall have Judgment against Defendant Jeremiah Bjerke in the amount of \$2,500.00 for civil penalties, pursuant to N.D.C.C. § 51-15-11.

i. That Plaintiff shall have Judgment against Defendant Jeremiah Bjerke in the amount of \$1,031.00 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.

j. That Defendant Jeremiah Bjerke shall pay to Plaintiff the sum of \$3,000.00, together with interest accruing thereon, as restitution for the Gerald Wright Trust.

k. That Defendant Jeremiah Bjerke shall pay to Plaintiff the sum of \$1,600.00, together with interest accruing thereon, as restitution for Elizabeth Koenig.

l. That Defendant Jeremiah Bjerke shall pay to Plaintiff the sum of \$13,636.50, together with interest accruing thereon, as restitution for Loren Kittelson.

m. That Defendant Jeremiah Bjerke 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.

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

o. Plaintiff, State of North Dakota ex rel. Wayne Stenehjem, Attorney General, shall have the right to assign to each individual consumer named in the Judgment, a part of the Judgment representing the amount owing to the individual consumer, as set forth in the Judgment.

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

Dated this _____ day of _____, 2016.

CLERK OF DISTRICT COURT

Signed: 12/2/2016 11:13:36 AM

By: Janet Amundson, Deputy