

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MCLEAN

SOUTH CENTRAL JUDICIAL DISTRICT

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

Civil No. 28-2016-CV-00127

Plaintiff,

SUMMARY JUDGMENT

-vs-

MARK HOWARD PATRICK CARLSON and
KENDRA KAYE MEYERS CARLSON,
doing business as MK CONCRETE &
CONSTRUCTION, and individually,

Defendants.

CPAT 160153.001

[¶1] This action came on before the Honorable Bruce Haskell, Judge of the McLean County District Court, South Central 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 October 21, 2016. Defendant failed to respond 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 Mark Howard Patrick Carlson be adjudged in violation of the contractor law, N.D.C.C. § 43-07-02, for engaging in the business or acting in the capacity of a contractor within North Dakota when the cost, value, or price per job exceeded the sum of four thousand dollars without first having a contractor license.

c. That Defendant Kendra Kaye Meyers Carlson be adjudged in violation of the contractor law, N.D.C.C. § 43-07-02, for engaging in the business or acting in the capacity of a contractor within North Dakota when the cost, value, or price per job exceeded the sum of four thousand dollars without first having a contractor license.

d. That Defendant Mark Howard Patrick Carlson be adjudged in violation of the consumer fraud law, N.D.C.C. § 51-15-02, for engaging in conduct in violation of the Consent Order entered by the Burleigh County District Court on November 9, 2015.

e. That Defendant Mark Howard Patrick Carlson 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.

f. That Defendant Kendra Kaye Meyers Carlson 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.

g. That Defendant Kendra Kaye Meyers Carlson be adjudged in violation of the consumer fraud law, N.D.C.C. § 51-15-02, for making false and misleading statements on her contractor license application in violation of N.D.C.C. § 43-07-14(1)(d).

h. That Defendant Kendra Kaye Meyers Carlson be adjudged in violation of the consumer fraud law, N.D.C.C. § 51-15-02, for facilitating and assisting Defendant Carlson's actions in violation of N.D.C.C. § 51-15-02.3.

i. That Defendant Mark Howard Patrick Carlson and Defendant Kendra Kaye Meyers Carlson, their agents, employees, representatives, assigns, and all other persons in active concert or participation with them, 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.

j. That Defendant Mark Howard Patrick Carlson and Defendant Kendra Kaye Meyers Carlson, their agents, employees, representatives, assigns, and all other persons in active concert or participation with them, 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).

k. That Defendant Mark Howard Patrick Carlson and Defendant Kendra Kaye Meyers Carlson, their agents, employees, representatives, assigns and all other persons in active concert or participation with them, 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 Defendants refund and pay in full amounts owed to all consumers that have paid Defendants 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.

l. That, after five (5) years from entry of judgment and until Defendant Mark Howard Patrick Carlson and Defendant Kendra Kaye Meyers Carlson refund and pay in full amounts owed to all consumers that have paid Defendants advance payments for services not performed or merchandise not delivered, Defendant Mark Howard Patrick Carlson and Defendant Kendra Kaye Meyers Carlson, their agents, employees, representatives, assigns, and all other persons in active concert or participation with them, 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 Defendant Mark Howard Patrick Carlson and Defendant Kendra Kaye Meyers Carlson have obtained a Contractor's License pursuant to N.D.C.C. ch. 43-07 and have complied with all contractor licensing requirements appropriate and necessary for the work to be undertaken by them. "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.

m. That, for a period of ten (10) years from entry of judgment, Defendant Mark Howard Patrick Carlson and Defendant Kendra Kaye Meyers Carlson, their agents, employees, representatives, assigns, and all other persons in active concert or participation with them, 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).

n. That Plaintiff shall have Judgment against Defendant Mark Howard Patrick Carlson in the amount of \$8,250.00 for civil penalties, pursuant to N.D.C.C. § 51-15-11.

o. That Plaintiff shall have Judgment against Defendant Kendra Kaye Meyers Carlson in the amount of \$4,500.00 for civil penalties, pursuant to N.D.C.C. § 51-15-11.

p. That Plaintiff shall have Judgment against Defendant Mark Howard Patrick Carlson and Defendant Kendra Kaye Meyers Carlson, jointly and severally, in the amount of \$15,966.00 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.

q. That Defendant Mark Howard Patrick Carlson and Defendant Kendra Kaye Meyers Carlson 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.

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

s. 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 9th day of December, 2016.

CLERK OF DISTRICT COURT

Cathy Bailey

By:

Cathy Bailey Deputy