

**DOMINIC PENDER O/A MODERN AIR AND 1001520 ALBERTA LTD.
DAVID BERTOLO O/A MODERN AIR AND 1001520 ALBERTA LTD.**

This Director's Order was issued under s. 157 of the *Fair Trading Act* in response to, in the opinion of the Director, contraventions of the Act. As mandated by s. 157.1 of the *Fair Trading Act*, this Director's Order is part of the public record.

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DIRECTOR'S ORDER UNDER SECTION 157 OF THE FAIR TRADING ACT

TO

DOMINIC PENDER O/A MODERN AIR AND 1001520 ALBERTA LTD.

TO

DAVID BERTOLO O/A MODERN AIR AND 1001520 ALBERTA LTD.

AND TO

ANY EMPLOYEE, REPRESENTATIVE, AGENT, OR ASSOCIATE OF DOMINIC PENDER, MODERN AIR, 1001520 ALBERTA LTD. AND DAVID BERTOLO

Issues

Dominic Pender, Director of 1001520 Alberta Ltd. o/a Modern Air was licensed by Alberta Government Services as a Direct Seller on November 13, 2003. Since the license was issued Government Services received and investigated 4 complaints regarding this company. The most recent complaint prior to 2006 was file 15918. The investigator attempted to contact Mr. Pender on a number of occasions to discuss outstanding issues. A registered letter sent to Mr. Pender was returned "unclaimed". Mr. Pender did not renew the license for 1001520 Alberta Ltd. o/a Modern Air and the license expired November 30, 2005.

Government Services has been advised by two separate consumers that they purchased a vacuum cleaner from Modern Air in 2006. The written contract confirms that vacuum cleaners were sold to those consumers in their homes. Modern Air was not licensed as a direct seller during those sales. Operating a Direct Selling Business without a license is a contravention of Section 104 of the Fair Trading Act.

Evidence gathered suggests that David Bertolo, former Director of EXL Distributers Alberta Inc. may be jointly operating Modern Air together with Dominic Pender. Mr. Bertolo entered into an Undertaking signed by the Director of Fair Trading on June 11, 2002. At the time of the Undertaking, Mr. Dominic Pender was working for EXL Distributers Alberta Inc.

Order

- Dominic Pender and 1001520 Alberta Ltd. o/a Modern Air, individually or through any employee, representative, agent, or associate, must immediately stop engaging in the activities of a direct selling business by soliciting, negotiating or concluding in person, at any place other than the seller's place of business, sales contracts, including direct sales contracts.
- David Bertolo and 1001520 Alberta Ltd. o/a Modern Air, individually or through any employee, representative, agent, or associate, must immediately stop engaging in the activities of a direct selling business by soliciting, negotiating or concluding in person, at any place other than the seller's place of business, sales contracts, including direct sales contracts.

NON COMPLIANCE WITH ORDER

- **ANY PERSON WHO FAILS TO COMPLY WITH AN ORDER OF THE DIRECTOR UNDER SECTION 157 OF THE FAIR TRADING ACT CONTRAVENES THIS ACT AND IS GUILTY OF AN OFFENCE AND MAY BE PROSECUTED PURSUANT TO SECTION 163 OF THE FAIR TRADING ACT.**



Scott Hood
Director of Fair Trading (as delegated)
July 19, 2006