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**DIRECTOR'S ORDER UNDER SECTION 157**

**OF THE *FAIR TRADING ACT***

**TO**

**A FIREPLACE COMPANY INC.**

**AND TO**

**DWAYNE CALVIN TYMINSKI**

**AND**

**ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF**

**A FIREPLACE COMPANY INC. OR**

**DWAYNE CALVIN TYMINSKI**

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.

For more information on the Fair Trading Act, business licensing in Alberta or to search for a licensed business, please click here:

[Search for a Licensed Business, Charity or Fundraiser](#)

To view a tipsheet on this business licence category, please click here:

[Tipsheets](#)

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**Issues**

Dwayne Tyminski, operating as A Fireplace Company Inc. operates a prepaid contracting business where contracts or portions thereof are solicited, negotiated, or concluded at a consumer's home and a consumer is required to provide a deposit or progress payment prior to the completion of the work.

On or about August 13, 2014 Dwayne Tyminski attended a consumer's residence where he negotiated and concluded a prepaid contract with the consumer and accepted a deposit in the amount of \$1,900.00. Mr. Tyminski did not possess a prepaid contracting business licence at the time of the transaction.

A "prepaid contracting business" means the activities of soliciting, negotiating or concluding in person, at any place other than the seller's place of business a construction or maintenance contract in which all or part of the contract price is to be paid before all the goods or services called for in the contract are provided.

The contract referenced above was solicited, negotiated or concluded in a fashion that satisfies the definition of a prepaid contracting business, requiring an individual and/or business to be licensed under Section 104(1) of the *Fair Trading Act*.

During the course of this transaction, Mr. Tyminski was using the company name "Fireplace Company Inc." which ceased to exist as such on January 14, 2014.

As of June 3, 2015 neither Mr. Tyminski nor Fireplace Company Inc., nor A Fireplace Company Inc. possess a prepaid contracting business license with Service Alberta. It is likely that this supplier will continue to enter into prepaid contracts in Alberta without possessing the required business license, in violation of the *Fair Trading Act*.

### ORDER

- A Fireplace Company Inc. must immediately:
  - cease from entering into prepaid contracts (accepting down payments, deposits or progress payments before the work is fully completed on contracts solicited, negotiated or concluded in person away from the company's place of business) with residential consumers until the licensing requirements have been met; and
  - ensure that all contracts include the terms required by the Fair Trading Act including, but not limited to, using the correct company name; and
- Dwayne Calvin Tyminski either in his own capacity or when acting on behalf of a corporation which he represents, or in which he has an interest, must immediately:
  - cease from entering into prepaid contracts (accepting down payments, deposits or progress payments before the work is fully completed on contracts solicited, negotiated or concluded in person away from the company's place of business) with residential consumers until the licensing requirements have been met; and
  - ensure that all contracts include the terms required by the *Fair Trading Act* including, but not limited to, using the correct company name; and
- Any employee, representative, agent or associate of Dwayne Calvin Tyminski or A Fireplace Company Inc. must immediately:
  - cease from entering into prepaid contracts (accepting down payments, deposits or progress payments before the work is fully completed on contracts solicited, negotiated or concluded in person away from the company's place of business) with residential consumers until the licensing requirements have been met; and
  - ensure that all contracts include the terms required by the *Fair Trading Act* including, but not limited to, using the correct company name.



**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)  
June 4, 2015