

Consumer Programs

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

TO

732264 ALBERTA LTD.
DOING BUSINESS AS ACCURATE CONSTRUCTION SERVICES

AND

JOHN BORN

AND

ANY EMPLOYEE, REPRESENTATIVE, OR AGENT
OF 732264 ALBERTA LTD., ACCURATE CONSTRUCTION SERVICES AND/OR JOHN
BORN

Issues

732264 Alberta Ltd. operating as "Accurate Construction Services" and director John Born operates a home renovation business where contracts or portions thereof are often solicited, negotiated, or concluded, in person, at a consumer's home and a consumer is required to pay deposit or progress payments prior to the completion of the work.

This activity constitutes a "prepaid contracting business" requiring a person or business to be licensed under Section 104(1) of the *Fair Trading Act*. 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 of the goods or services called for in the contract are provided.

In April, 2010 732264 Alberta Ltd. and John Born entered into a prepaid contract with a consumer. The contract worth in excess of \$172,000 was negotiated and concluded at the consumer's residence. On April 22, 2010 an initial \$10,000 deposit was paid, followed by several more deposits/progress payments over 6 months.

In June 2010, 732264 Alberta Ltd. and John Born were informed in writing of the prepaid contracting license requirement. The supplier initially disputed the Department's position.

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However, a follow-up letter with an enclosed license application package was sent to him, explaining in greater detail the definition of a "deposit" and that all progress payments constitute a "deposit".

In late June 2010, John Born subsequently contacted the licensing staff and expressed the intention of applying for a prepaid contracting license. As of October 6, 2010, no license application has been submitted to Service Alberta.

It is highly likely that 732264 Alberta Ltd. operating as "Accurate Construction Services" and John Born continues to operate a large scale home renovation business. The potential remains that this supplier will at some future time enter into prepaid contracts as defined in the *Fair Trading Act* without the benefit of a license and in direct violation of the Act.

Order

- 732264 Alberta Ltd. operating as "Accurate Construction Services" and John Born must immediately cease entering into prepaid contracts (taking deposits or progress payments before ALL work is fully completed) until the licensing requirements have been met in full.
- Individuals who are employed by, representing, acting as agent for or otherwise associated with 732264 Alberta Ltd. operating as "Accurate Construction Services" and John Born must immediately cease entering into prepaid contracts (taking deposits or progress payments before ALL the work is fully completed) until licensing requirements have been met in full.

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)
October 12, 2010