

**MONSTER AERATION INC.**

**AND TO**

**JOSHUA ROBERTS**

**AND TO**

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

**MONSTER AERATION INC.**

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 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**

**MONSTER AERATION INC.**

**AND TO**

**JOSHUA ROBERTS**

**AND TO**

**ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF MONSTER AERATION  
INC.**

**Background and Issues**

Monster Aeration Inc. and Joshua Roberts entered into four consumer transactions; two for snow removal and two for spring lawn care and yard cleanup. The respective agreements were entered into on, November 15, 2012, December 4, 2012, December 10, 2012 and February 26, 2013.

Monster Aeration Inc. and Joshua Roberts entered into consumer transactions knowing the goods and services promised could not be provided and knowing that the consumers would be unable to receive any reasonable benefit. Section 6(3)(a) of the *Fair Trading Act* states that this is an Unfair Practice.

Monster Aeration Inc. and Joshua Roberts provided invoices and accepted full payment which reasonably deceived and mislead the consumers. Monster Aeration Inc. provided a refund date that has not been honoured and continues to deceive and mislead the consumers. Section 6(4)(a) of the *Fair Trading Act* states that this is an Unfair Practice.

All appointments made with the consumers were consistently rescheduled and subsequently not honoured. Monster Aeration Inc. offers refunds to the consumers but has not provided them. Monster Aeration Inc. represented that the goods and services could be supplied when they could not. Section 6(4)(k) of the *Fair Trading Act* states that this is an Unfair Practice.

## **Legislation**

### *Fair Trading Act*

Section 6(3)(a) - It is an unfair practice for a supplier

- (a) to enter into a consumer transaction if the supplier knows or ought to know that the consumer is unable to receive any reasonable benefit from the goods or services;

Section 6(4) – The following are unfair practices if they are directed at one or more potential consumers:


- (a) a supplier's doing or saying anything that might reasonably deceive or mislead a consumer;
- (k) - a supplier's representation that the supplier can supply goods or services if the supplier cannot;

## **Order**

- Monster Aeration Inc. and Joshua Roberts individually or through any employee, representative, agent, or associate must immediately stop engaging in the Unfair Practice of entering into consumer transactions knowing the goods and services promised could not be provided and knowing that the consumer would be unable to receive any reasonable benefit.
- Monster Aeration Inc. and Joshua Roberts individually or through any employee, representative, agent, or associate must immediately stop engaging in the Unfair Practice of doing or saying anything that might reasonably deceive or mislead a consumer.
- Monster Aeration Inc. and Joshua Roberts individually or through any employee, representative, agent, or associate must immediately stop engaging in the Unfair Practice of failing to honour scheduled service appointments without returning the money paid for the services while representing that the good and services could be supplied when they could not.

**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*.**

A handwritten signature in black ink, appearing to read "S. Hood", written in a cursive style.

Scott Hood  
Director of Fair Trading (as delegated)  
October 31, 2013