

**LEVEL ALL CONSTRUCTION LTD.  
AND  
KEVIN BARKER  
AND TO  
ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF  
LEVEL ALL CONSTRUCTION LTD.**

This Director's Order was issued under s. 157.1 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**

**LEVEL ALL CONSTRUCTION LTD.**

**AND**

**KEVIN BARKER**

**AND**

**ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF LEVEL ALL  
CONSTRUCTION LTD.**

**ISSUE**

On or about May 18, 2012, Kevin Barker, representing Level All Construction Ltd., entered into a contract with a consumer in person at the consumer's residence for work on that residence. The contract included removal and replacement of an existing fence. The total price of this contract was \$6,825.00, of which \$3,400.00 was paid before work began. The work required by the contract has not been completed and the consumer has cancelled the contract. A refund has not been provided.

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. When a contractor enters into a prepaid contract without the proper licence, the consumer can cancel the contract up to one year from the date the contract was entered into. If the consumer cancels, the contractor must return all money paid by the consumer, after which the consumer and contractor can work out the amount owing for work already done.

Level All Construction Ltd., through its representative Kevin Barker, has entered into a prepaid contract with a consumer without holding this licence. As of September 14, 2012, Level All Construction Ltd. was informed of the prepaid contracting business licence

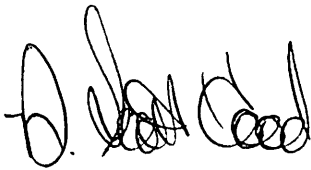
requirement. Although Chris Barker, the director of Level All Construction Ltd., contends he was unaware of this contract and does not intend to operate as a prepaid contractor, the contract in question was entered into by Level All Construction Ltd. As such, there is the potential this company or Kevin Barker may enter into prepaid contracts with residential consumers in the future without a licence, in violation of the *Fair Trading Act*.

### **ORDER**

- Kevin Barker, either in his own capacity or when acting on behalf of a corporation in which he has an interest or by which he is employed, must immediately cease entering into prepaid contracts (taking down payments, deposits or progress payments before the work is fully completed) with residential consumers until licensing requirements have been met.
- Level All Construction Ltd. must immediately cease entering into prepaid contracts (taking down payments, deposits or progress payments before the work is fully completed) with residential consumers until licensing requirements have been met.
- Any employee, representative, agent or associate of Level All Construction Ltd. must immediately cease entering into prepaid contracts (taking down payments, deposits or progress payments before the work is fully completed) with residential consumers until licensing requirements have been met.

### **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)  
May 13, 2013