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**DIRECTOR'S ORDER UNDER SECTION 157**

**OF THE *FAIR TRADING ACT***

**TO**

**RUSSELL STEWART**

**AND**

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

**RUSSELL STEWART**

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:

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TO

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BACKGROUND AND ISSUES

Russell Stewart negotiated and concluded in person, away from his business premises, a residential renovation contract with an Alberta consumer. The respective contract was entered into in April of 2013. The consumer provided a pre-payment before work on the contract was completed.

The Alberta consumer obtained a third-party consumer inspection report for the renovation work completed by Russell Stewart which provides the necessary evidence of proof that the work completed by would be required to be re-done. Russell Stewart knew or ought to have known that there would be no reasonable benefit from his services to the Alberta consumer.

The activity of soliciting, negotiating or concluding a contract, in person, in a location other than their normal place of business and accepting a deposit or prepayment prior to completion of the project constitutes a "**Prepaid Contracting Business**". This requires Russell Stewart to be licensed as required 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 prepaid contract.

A "Prepaid Contract" means 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.

A "Construction or Maintenance Contract" in part means a contract for the purposes of constructing, altering, maintaining, repairing, adding to or improving a person's own private dwelling or a structure/building located on the same property, used in conjunction with the person's own private dwelling or improving real estate property to be used in connection with the person's own private dwelling/building/structure.

It is an Unfair Practice for a Supplier 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.

### Order

- Russell Stewart, individually or through any employee, representative, agent, or associate must immediately stop engaging in the activities of a "Prepaid Contracting Business" by soliciting, negotiating, or concluding in person, at any place other than the seller's place of business, a prepaid contract.
- Russell Stewart, individually or through any employee, representative, agent, or associate must immediately stop engaging in the Unfair Practice of entering 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.

### 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 2, 2014