
DIRECTOR'S ORDER UNDER SECTION 157

OF THE *FAIR TRADING ACT*

TO

WADE CHARLES ELLAS

AND TO

ELEVATED DECK AND RAIL LTD.

AND TO

ANY EMPLOYEE, REPRESENTATIVE, AGENT OR ASSOCIATE OF

WADE CHARLES ELLAS

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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Background and Issues

Wade Charles Ellas operating as Elevated Deck and Rail Ltd. solicited negotiated and/or concluded in person a residential renovation contract with Alberta consumers. This was done in person at a place other than the seller's place of business. The referenced contract was negotiated on August 26, 2013. In this instance the consumers provided a deposit before the contract was completed.

This activity constitutes a "Prepaid Contracting Business" requiring Wade Charles Ellas and or Elevated Deck and Rail Ltd. to be licensed as required under Section 104(1) of the *Fair Trading Act*.

At the time of entering into a prepaid contract with these consumers, Wade Charles Ellas and/or Elevated Deck and Rail Ltd was not licensed as a "Prepaid Contracting Business" as required under Section 104(1) of the *Fair Trading Act*.

When a contractor enters into a prepaid contract, the contract must include all of the information in section 35 of the *Fair Trading Act*. The prepaid contract used by Mr. Ellas did not include all of the information required by section 35 of the *Fair Trading Act*. If a prepaid contract does not include all the information required by section 35 of the *Fair Trading Act*, the consumer may cancel the contract up to one year from the date of the contract was entered into. The consumers cancelled the contract and Mr. Ellas did not return the deposit to either consumer after the cancellation.

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 purpose 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 connection with a person's own private dwelling or improving real property to be used in connection with the person's own private dwelling/building/structure.

Order

- Wade Charles Ellas, 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.
- Elevated Deck and Rail Ltd. through any employee, representative, agent or associate, must immediately stop engaging in the activities of a "Prepaid Contracting Business" until properly licensed as a Prepaid Contracting Business in Alberta.
- Wade Charles Ellas or Elevated Deck and Rail Ltd. individually or through any employee, representative, agent or associate, must ensure all their written direct sales contracts meet the disclosure requirements of Section 35 of the *Fair Trading Act*.

NON COMPLIANCE WITH ORDER:

ANY PERSON WHO FAILS TO COMPLY WITH AN ORDER ISSUED BY THE DIRECTOR UNDER SECTION 157 OF THE *FAIR TRADING ACT* CONTRAVENES THIS ACT AND IS GUILTY OF AN OFFENCE PURSUANT TO SECTION 163 OF THE *FAIR TRADING ACT*.



Scott Hood
Director of Fair Trading (as delegated)
November 21, 2014