
DIRECTOR'S ORDER UNDER SECTION 157

OF THE *FAIR TRADING ACT*

TO

DONALD (DON) PATRICK BARRY

AND

**ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF
DONALD (DON) PATRICK BARRY**

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(1) of the *Fair Trading Act*, this Director's Order is part of the public record.

Albertans who have questions or concerns about this business are encouraged to contact the Service Alberta Consumer Contact Centre at 1-877-427-4088.

For more information on the *Fair Trading Act*, business licensing in Alberta or to search for a licensed business, please click here:

[Search for a Licensed Business, Charity or Fundraiser](#)

To view a tipsheet on this business licence category, please click here:

[Tipsheets](#)

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ISSUE

On or about August 11, 2015, Donald (Don) Patrick Barry negotiated and entered into a verbal contract in person with a consumer for work on the drywall in her garage. The total price of this contract was \$2300. The entire amount was paid before work started. Donald (Don) Patrick Barry discovered that the job would take more than he had thought and changed the contract amount to \$5000. The remaining \$2700 was paid before the contract was completed.

On or about August 11, 2015, Donald (Don) Patrick Barry negotiated and entered into a verbal contract in person with a consumer for the installation of some doors, baseboards and trim. The total price of this contract was \$1831.20. The total amount was paid before work was started.

On or about September 5, 2015, Donald (Don) Patrick Barry negotiated and entered into a verbal contract in person with a consumer for work on the outside of the house including some painting and repair to the driveway. The total price of this contract was \$2334. The entire amount was paid before work started.

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.

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.

Donald (Don) Patrick Barry has entered into three prepaid contracts without holding this license. As of January 13, 2016 Donald (Don) Patrick Barry was informed of the prepaid contracting license requirement, but has yet to obtain the required license nor has he responded to the Consumer Investigations Unit's enquiries regarding these contracts.

The three contracts were verbal and did not comply with the requirements of the *Fair Trading Act*.

ORDER

- Donald (Don) Patrick Barry 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 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 until licensing has been obtained;
 - ensure that all prepaid contracts are in writing and include the terms required by the Prepaid Contracting Business Licensing Regulation and *Fair Trading Act* and provide a copy of the signed contract to the consumer.
- Any employee, representative, agent or associate of Donald (Don) Patrick Barry must immediately
 - cease 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 until licensing has been obtained;

- ensure that all prepaid contracts are in writing and include the terms required by the Prepaid Contracting Business Licensing Regulation and *Fair Trading Act* and provide a copy of the signed contract to the consumer.

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)
July 8, 2016