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**DIRECTOR'S ORDER UNDER SECTION 157**

**OF THE *FAIR TRADING ACT***

**TO**

**JOSEPH VINCENT KOCHAN AND  
1671489 ALBERTA LTD.**

**AND TO ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF  
JOSEPH VINCENT KOCHAN OR 1671489 ALBERTA 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(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 April 20, 2015 Joseph Vincent Kochan attended a consumer's residence where he negotiated and concluded a prepaid contract with the consumer for the construction of a deck. A written contract was not provided or signed. Joseph Vincent Kochan accepted a deposit in the amount of \$1163.00 on April 21, 2015. The deck was not built, and the consumer was not provided with any of the building materials that Joseph Vincent Kochan stated that he purchased with the funds provided to him. Mr. Kochan did not possess a prepaid contracting business licence at the time of this transaction.

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.

When a business enters into a prepaid contract to provide goods and services worth \$200 or more, this contract must be in writing and include specific terms required by the *Prepaid Contracting Business Licensing Regulation* and *Fair Trading Act*.

Joseph Vincent Kochan has entered into a prepaid contract with a consumer without holding a prepaid contracting business license, did not include all required terms in that prepaid contract and misled and deceived the consumer. Mr. Kochan has previously been informed of the prepaid contracting license requirement and contract requirements and has continued to operate in violation of these regulations. There is the potential he may enter into prepaid contracts with residential consumers in the future without a license, in violation of the *Fair Trading Act*.

As of March 1, 2017, Joseph Vincent Kochan does not possess a prepaid contracting business license with Service Alberta.

### **ORDER**

- Joseph Vincent Kochan either in his own capacity or when acting on behalf of a corporation which he represents, or in which he has an interest, must immediately:
  - cease from entering into prepaid contracts (accepting down payments, deposits or progress payments before the work is fully completed on contracts solicited, negotiated or concluded in person away from the company's place of business) with residential consumers until the licensing requirements have been met; and
  - 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,
  - cease doing or saying anything that might reasonably deceive or mislead a consumer.
  
- 1671489 Alberta Ltd. must immediately
  - cease from entering into prepaid contracts (accepting down payments, deposits or progress payments before the work is fully completed on contracts solicited, negotiated or concluded in person away from the company's place of business) with residential consumers until the licensing requirements have been met; and

- 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,
- cease doing or saying anything that might reasonably deceive or mislead a consumer.
- Any employee, representative, agent or associate of Joseph Vincent Kochan or 1671489 Alberta Ltd. must immediately:
  - cease from entering into prepaid contracts (accepting down payments, deposits or progress payments before the work is fully completed on contracts solicited, negotiated or concluded in person away from the company's place of business) with residential consumers until the licensing requirements have been met; and
  - 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,
  - cease doing or saying anything that might reasonably deceive or mislead a 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)  
March 2, 2017