

**IN THE MATTER OF
THE FAIR TRADING ACT**

THIS UNDERTAKING is made pursuant to Section 152 of the Fair Trading Act.

BY:

W.D.With & Associates Ltd.
760-11012 Macleod Trail S.E.
Calgary Alberta
Directors: William With & Marguerite With
Registered Office: 202 1717 10 Street N.W.
In the City of Calgary in the Province of Alberta

(Hereinafter called the "Supplier")

TO:

The **DIRECTOR OF FAIR TRADING,**

(Hereinafter called the "Director")

WHEREAS:

- (A) The Supplier became a licensed collection agency authorized to conduct business in the Province of Alberta on January 25 1979.
- (B) The Supplier employs collectors that require licensing if and when they are contacting Albertans for the purpose of collecting and thereby reconciling lawfully incurred debts.
- (C) The Supplier acknowledges that it has been advised that unfair trade practices are not permitted under the Fair Trading Act of Alberta.
- (D) The Supplier admits that collectors, on their behalf conducted business and attempted to secure collections in a manner contrary to the Fair Trading Act, thereby committing an unfair trade practice.
- (E) The Supplier acknowledges that in the ordinary course of business, a collector employed by them known as _____ did make telephone calls of such a nature and frequency as to constitute harassment of the debtor, the debtor's spouse or any member of the debtor's family or household. Specifically, contacting the father of an adult debtor, at his home, place of employment as well as the weekend home of the father, which is in a different province aside from the residence of the debtor and of the father.
- (F) The Supplier acknowledges that in the ordinary course of its business, a collector employed by them known as _____ did give a person, directly or indirectly, by implication or otherwise, false, misleading information. Specifically that he did contact the very elderly grandmother of a debtor, purporting to be a friend of the debtor, thereby convincing the grandmother to supply a phone number to make contact with the debtor at a number not typically associated to the debtor.
- (G) The Supplier acknowledges that in the ordinary course of its business, a collector employed by them, known as _____ did contact a debtor's employer, spouse, relative and or friends, for the purpose of securing payment of a debt and in a manner and with the rationale outside the guidelines as prescribed in the Fair Trading Act. Specifically did continue to contact a debtor at her place of employ after being supplied with a phone number that the debtor was easily accessible at. Further the calls continued despite the debtor's objections and were ultimately received by both the debtor's peers as well as their supervisor.

- (H) The Supplier acknowledges that in the ordinary course of its business, a collector employed by them known as _____ did contact a debtor's employer, spouse, relative neighbor or friend for the purpose of securing a debt in a manner and with the rationale outside the guidelines as prescribed in the Fair Trading Act. Specifically _____ contacted a former neighbor of the debtor, secured a name of a child of the debtor, then used this information at the former school of the debtor's child to secure a phone number for the debtor.
- (I) The Supplier acknowledges that in the ordinary course of business a collector employed by them known as _____ did collect from a debtor an amount greater than the amount owed by the debtor, contrary to the Fair Trading Act. Specifically through an outside contact accessed the debtor's bank account and by depositing an amount given to Mr. _____ by the Supplier augmented the debtor's bank account and then withdrew sufficient funds to reconcile the total debt, despite already seeking and receiving a partial payment of the debt from the debtor, thereby collecting more than the debtor originally owed.
- (J) The Supplier acknowledges that in the ordinary course of business a collector employed by them known as _____ did give any person, directly or indirectly, by implication or otherwise, false and or misleading information. Specifically Mr. _____ contacted the former school of the debtor's 10-year-old daughter, purporting to have a serious legal matter at hand and thereby secured a forwarding phone number for the debtor from the school principal.

NOW THEREFORE THIS UNDERTAKING WITNESSES THAT:

1. The Supplier acknowledges that its employees may have breached the Fair Trading Act by committing unfair trade practices and that by operation of section 166 of the Fair Trading Act; it is vicariously liable for those actions. The Supplier undertakes to the Director that this Supplier will not, at any time, hereafter, engage in acts or practices similar to those described in recitals (E), (F), (G), (H), (I) and (J).
2. The Supplier will ensure that all collectors will be properly trained to comply with all provisions of the Fair Trading Act prior to attempting to collect lawful debts from Albertans.
3. The Supplier will, to the best of its ability ensure that all contacts made on collection files will be correctly and accurately noted on the activity note lines for each file.
4. The Supplier will, to the best of its ability ensure that full and complete disclosure of the information will be supplied to Department officials, and in a manner requested by Department officials, as soon as possible, whenever investigations require the submission of same.
5. The Supplier will ensure, to the best of its ability that all of its officers, partners, employees, collectors and representatives are forthwith acquainted with the requirements of the Fair Trading Act, specifically as it pertains to Part 11, Collection Practices.

It is understood that the Supplier has

- i) Taken steps to ensure all collectors in their employ will, whilst contacting Albertans in the normal course of business will strictly adhere to the guidelines and comply with the legislation, which authorizes such collection activity in Alberta, commonly known as the Fair Trading Act.

ii) Implement a training procedure for current and new employees to facilitate a full and complete understanding of Part 11 of the Fair Trading Act, to ensure compliance with the Act and its Regulations.

6. The Supplier understands and acknowledges that this Undertaking becomes part of the Public Record, maintained pursuant to the Fair Trading Act.

This Undertaking will be binding upon the Supplier and its successors and assigns unless:

- (a) Termination by the Director or varied with the consent of the Supplier;
- (b) Varied by an Order of the Judge of the Court of Queen's Bench where the Judge is satisfied that the circumstances warrant varying the provisions of the Undertaking; or
- (c) Terminated by an Order of a Judge of the Court of Queen's Bench where the Judge is satisfied that the act or practice that the Supplier has undertaken to refrain from engaging in was not unfair;

However, in any such case, the termination or variance does not invalidate anything done under this Undertaking prior to termination or variance.

7. The Supplier acknowledges that the Director may, upon breach by the Supplier of any term of the Undertaking, institute such proceedings and take such action under the Fair Trading Act, as he may consider necessary.

8. The Supplier will pay to the Director, for deposit with the Provincial Treasurer of Alberta, the sum of one thousand (\$1,000) Dollars, which represents a portion of the costs of investigations in these matters to the date of this Undertaking. Such payment shall be made within ten (10) days of the signing of this Undertaking.


9. The Supplier acknowledges that it was advised by Alberta Government Services, and is aware that it is entitled to seek independent professional advice regarding the signing of this Undertaking, and the Supplier acknowledges that it is entering into this Undertaking voluntarily.

IN WITNESS WHEREOF the Supplier has on the 7 day Feb. of, 2002, caused its common seal to be hereunto affixed and attested by the signatures of its proper officers duly authorized in that behalf.

W.D With & Associates Ltd.

PER: 
William D. With Director

PER: 
Marguerite A. With Director

ACCEPTED by the Director of Fair Trading this 19th FEBRUARY day of, 2002

DIRECTOR OF FAIR TRADING