

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

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

BY:

**Thomas Lounsbury operating as Fortress Contracting,
4532 – 13 Avenue N.W.
Edmonton, Alberta
in the City of Edmonton, in the Province of Alberta,**

(hereinafter called the "**Supplier**")

TO:

The DIRECTOR OF FAIR TRADING,

(hereinafter called the "**Director**")

WHEREAS:

- (A) The Supplier is not licensed to as a prepaid contracting business in Alberta.
- (B) The Supplier acknowledges he was previously informed of the prepaid contracting business licensing requirements, and he did provide written confirmation dated November 28, 2002 that he would no longer operate as a prepaid contractor.
- (C) The Supplier entered into a prepaid contract with _____ a resident of Alberta.
- (D) The Supplier did solicit, negotiate, or conclude a construction, renovation, or maintenance contract **and** did take a deposit and several progress payments from _____ at a place other than the Suppliers' normal place of business.
- (E) The Supplier acknowledges that in the ordinary course of his business, while unlicensed, he did enter into a contract with _____ a resident of Alberta. The contract was concluded on or about March 26, 2003, and a deposit of \$10,000.00 was requested and accepted by the Supplier from _____ before the work was completed.
- (F) The Supplier acknowledges that in the ordinary course of his business, he requested and received additional deposits or progress payments from _____ totaling \$11,939.00 before the work was completed.

- (G) The Supplier acknowledges that in the ordinary course of his business, he did unlawfully enter into a prepaid contract with _____ without complying with the contract requirements as set out in Section 10 of the Prepaid Contracting Business Licensing Regulation being AR 185/99, contrary to Section 162(1) of the Fair Trading Act.
- (H) The Director asserts that he has reason to believe that the acts or practices of the Supplier described in recitals (D), (E), (F), and (G) herein constitute breaches of the Fair Trading Act.


NOW THEREFORE THIS UNDERTAKING WITNESSES THAT:

1. The Supplier acknowledges and admits that it has failed to comply with the licensing provisions of the Fair Trading Act and undertakes to the Director that the Supplier will not, knowingly or intentionally, at any time hereafter, engage in or allow acts or practices similar to those described in recitals (D), (E), (F) and (G) or any other prohibited acts in the Fair Trading Act.
2. The Supplier will, to the best of its ability, ensure that all of its officers, partners, employees, representatives and agents are forthwith acquainted with the requirements of the Fair Trading Act especially as it pertains to prepaid contracting licensing requirements and unfair practices.
3. It is understood that the Supplier has
 - i) ceased taking deposits or progress payments on construction, renovation, or maintenance contracts from Albertans prior to completing the work.
 - ii) instructed his representatives, employees, or partners not to take deposits or progress payments on construction, renovation, or maintenance contracts from Albertans prior to completing the work;
 - iii) acquainted himself and acquainted any of his representatives, employees, or partners regarding the prepaid contracting licensing requirements and unfair practices outlined in the Fair Trading Act.
4. This Undertaking will be binding upon the Supplier and its successors and assigns unless:
 - (a) terminated 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.

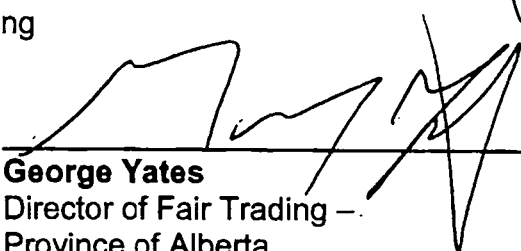
5. The Supplier acknowledges that the Director may, upon breach by the Supplier of any terms of the Undertaking, institute proceedings and take such action under the Fair Trading Act, as he may consider necessary.
6. The Supplier will pay to the Director, for deposit with the Finance Minister of Alberta, the sum of Eight Hundred (\$800.00) Dollars, which represents a portion of the costs associated with investigating this matter. Such payment shall be made within ten (10) days of the signing of this Undertaking.
7. The Supplier acknowledges that he was advised by Alberta Government Services, and is aware that he is entitled to seek independent professional advice regarding the signing of this Undertaking, and the Supplier acknowledges that he is entering into this Undertaking voluntarily.

IN WITNESS WHEREOF the Supplier, has on the 15th day of December, 2003, caused its common seal to be hereunto affixed and attested by the signatures of its proper officers duly authorized in that behalf.

**THOMAS ELMYER LOUNSBURY
FORTRESS CONTRACTING**

PER: 
Thomas Elmyer Lounsbury

ACCEPTED by the Director of Fair Trading
this 15th day of December, 2003.


George Yates
Director of Fair Trading –
Province of Alberta