

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

STATE OF ALASKA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
EDWARD GORMAN, d/b/a	)	
TED GORMAN CONSTRUCTION,	)	
and/or GORMAN CONSTRUCTION;	)	
ROBERT GORMAN, d/b/a ROBERT	)	
GORMAN MAINTENANCE or	)	
GORMAN CONSTRUCTION; JOHN	)	
GORMAN, and JOHN DOES I through V.)	)	
	)	
Defendants.	)	Case No. 3AN-12-_____ Civil

**COMPLAINT FOR INJUNCTIVE RELIEF,  
CIVIL PENALTIES, AND RESTITUTION**  
(AS 45.50.501)

The State of Alaska, through the Office of the Attorney General, for its complaint alleges:

**JURISDICTION AND VENUE**

1. The State of Alaska, through the Office of the Attorney General, brings this complaint under the Unfair Trade Practices and Consumer Protection Act, AS 45.50.471 et seq., based on Defendants’ acts or practices in offering, selling, and providing sealcoating and asphalt paving services. Under AS 45.50.501, the Attorney General has cause to believe that Defendants have engaged in, and are currently engaging in, acts or practices unlawful under the Act, and brings this action in the public interest. This court has jurisdiction over all aspects of the complaint under AS 45.50.501.

2. Venue in this action is proper in the Third Judicial District at Anchorage, under Rule 3 of the Alaska Rules of Civil Procedure.

### **DEFENDANTS**

3. Defendant Edward Gorman is a resident of Sweetwater, Texas and conducts business in Alaska as Ted Gorman Construction, and/or Gorman Construction.

4. Defendant Robert (Bob) Gorman is believed to be a resident of the State of Texas and conducts business in Alaska as Robert Gorman Maintenance and/or as Gorman Construction.

5. Defendant John (Jack) Gorman is a resident of Independence, Missouri. Defendant John Gorman is the son of Defendant Robert Gorman, and conducts business on behalf of Robert Gorman Maintenance.

6. John Does I through V are pseudonyms for persons believed to be related to, or associated with, the named defendants and whose legal identity is currently unknown but is expected to become known through discovery. John Does I through V are believed to do business in Alaska as Gorman Construction, Robert Gorman Maintenance, and/or additional business names.

7. At all times relevant to this complaint, Defendants have actively engaged in the business of offering and providing sealcoating and asphalt paving services, and such business activities constitute the conduct of trade or commerce within the meaning of AS 45.50.471.

## FACTUAL ALLEGATIONS

8. According to numerous reports and complaints received by the Attorney General's Office and the Better Business Bureau, at various times starting in 2010 through the present, Defendants either individually or working in concert have engaged in unfair or deceptive practices in providing sealcoating and paving services in various locations in Alaska. Defendants travel to and remain in Alaska for some period of time during the summer months, and travel to different locations in the state to offer their services primarily through door-to-door solicitation. They typically contact consumers at their homes and purport to offer a special deal or discount, claiming to have extra or leftover material from a nearby job. In fact, Defendants overcharge for work that is incomplete, shoddily performed, or not as represented.

9. Defendants typically represent they are licenced, bonded, and insured. In fact, neither John Gorman or Robert Gorman have the required professional license to perform sealcoating or paving services in Alaska.

10. Edward Gorman had a specialty contractor's license, but it expired on December 31, 2011. Nevertheless, Edward Gorman continues to advertise his services, through a website, [www.tedgormanconstruction.com](http://www.tedgormanconstruction.com).

11. Defendants fail to provide written notice to consumers of their right to revoke a door-to-door sales contract, in violation of the Federal Trade Commission's Cooling Off Rule, 16 C.F.R. § 429 and in violation of Alaska's Door to Door Solicitation statute, AS 45.02.030. Under AS 45.02.030, consumers retain their right to revoke a door-to-door sales contract for five business days.

12. Defendants represent that their work is guaranteed and comes with warranty; the length of the warranty varies but is between one and five years. In fact, Alaskan consumers who have paid for Defendants' services have been dissatisfied with the work performed but have been unable to contact Defendants by telephone, and/or Defendants have not returned to the location to make repairs or complete work as promised, and/or Defendants have not provided full refunds to consumers for the defective work.

13 A specific example of unfair or deceptive conduct by Defendants is reflected in the complaint filed with the Attorney General's Office by Anchorage resident N.W. In June 2012, Defendant John Gorman contacted N.W., age 79, at her home. John Gorman claimed it would normally cost \$8,000 to pave her driveway, but he would do it for \$3500 because he had leftover material from a previous job and he wanted to get rid of it. He claimed that the material was the kind "used on runways" and when they were finished, the driveway would look new. N.W. agreed to pay \$3,500. Defendant only thinly coated the driveway, failing to level the pavement that had been raised by cracks, and leaving a "sloppy" appearance. When N.W. expressed that the job was not performed properly, Defendant Robert Gorman agreed to reduce the price by \$500. Shortly thereafter, N.W. learned that Robert Gorman was unlicensed and she stopped payment on her check. When she called Robert Gorman, he convinced her that he was in fact licensed and that it was "the people who previously owned the company" whose license was cancelled. A new price of \$2,000 was agreed on, which N.W. paid in full with a new check. N.W. reported that one week later, weeds were

coming up through cracks in the driveway, the material was shrinking in places, and there were other problems with the work performed.

14. Another example of unfair or deceptive conduct by Defendant Robert Gorman is reflected in a complaint filed with the Attorney General's Office by C.J., age 82. Robert Gorman contacted C.J. at her home on June 21, 2012 and offered to coat her driveway with a "new type" of asphalt coating with a "seven-year hold up" and a three-year warranty. He represented that he could give her a reduced rate because he had 150 gallons left over from another job. C.J. paid Defendant \$3,200 for the work. Defendant's employee failed to level the asphalt, did not fill cracks in the driveway, and sprayed sealant on C.J.'s lawn and garage door.

15. Another example of unfair or deceptive conduct by Gorman Construction is reflected in a complaint filed with the Attorney General's Office by Fairbanks resident A.S. A representative of Gorman Construction went to A.S.'s home on July 20, 2011 and asked whether they wanted their driveway paved. He said they had a few extra truckloads from a job and could give them a good deal. A.S. agreed, and paid Defendant Edward Gorman \$8,200 for the work. A.S. requested a receipt from Defendant, and Edward Gorman agreed to return the following day with a receipt. Ten days later, A.S. called Defendant to inform him that she had still not received the receipt and had noticed water pooling on the driveway in a spot that would be dangerous when it froze. Defendant agreed to repair the driveway and provide a receipt within the week, but he did not show up and did not return phone calls. A.S. found a contractor to inspect Defendant's work, and he estimated that it would cost \$8000 to repair the job.

Finally, in November 2011 following substantial efforts by A.S and following contact with the Attorney General's Office, Defendant gave A.S. a partial refund and a receipt.

16. Another example of unfair or deceptive conduct by Gorman Construction is reflected in a complaint filed by S.T. of Fairbanks, Alaska. A representative of Gorman Construction contacted S.T. at her home on July 31, 2011 and offered to pave her driveway for \$4,300. The representative stated that the work was guaranteed for one year. S.T. agreed, and Defendant paved the driveway. S.T. then wrote a check for \$2,500 to Ted Gorman and charged the remainder to her credit card. The following day, S.T. noticed multiple dips in the asphalt that needed repair. She contacted Ted Gorman about the dips and he replied that he would do the repairs the following day. Defendant never returned to do the repairs. S.T. later contacted her credit card company and learned that he had charged her card \$1,800 twice in a three-day span.

**COUNT I**  
**AS 45.50.471(a)**

17. Paragraphs 1 through 16 are incorporated by reference.

18. In the course of Defendant's conduct described herein, Defendants engaged in, and are engaging in, unfair or deceptive acts or practices and an unfair method of competition in connection with offering, selling, and providing sealcoating, asphalt paving and other services. More specifically, Defendants 1) falsely claim to offer reduced prices because they have materials left over from another job, 2) fail to perform services in a workmanlike manner and fail to remedy shoddy work or provide refunds for it, 3) represent that work is guaranteed when it is not, 4) fail to provide

written notice of the purchaser's right to revoke a door-to-door sale, and 5) falsely claim to be licensed, bonded, and insured. Each of these acts against each of these defendants constitutes a violation of one or more provisions of Alaska's Unfair Trade Practices and Consumer Protection Act, AS 45.50.471 et seq., including AS 45.50.471(a).

## **COUNT II**

### **AS 45.50.471(b)(4)**

19. Paragraphs 1 through 18 are incorporated by reference.

20. In the course of Defendants' conduct described herein, Defendant engaged in, and are engaging in, unfair or deceptive acts or practices and an unfair method of competition in connection with offering, selling, and providing sealcoating, asphalt paving, and other services. More specifically, Defendants 1) falsely claim to offer reduced prices because they have materials left over from another job, 2) fail to perform services in a workmanlike manner and fail to remedy shoddy work or provide refunds for it, 3) represent that work is guaranteed when it is not, 4) fail to provide written notice of the purchaser's right to revoke a door-to-door sale, and 5) falsely claim to be licensed, bonded, and insured. Each of these acts against each of these defendants constitutes a violation of one or more provisions of Alaska's Unfair Trade Practices and Consumer Protection Act, AS 45.50.471 et seq., including AS 45.50.471(b)(4) which prohibits representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has sponsorship, approval, status, affiliation, or connection that they do not have.

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**COUNT III**

**AS 45.50.471(b)(6)**

21. Paragraphs 1 through 20 are incorporated by reference.

22. In the course of Defendants' conduct described herein, Defendants engaged in, and are engaging in, unfair or deceptive acts or practices and an unfair method of competition in connection with offering, selling, and providing sealcoating, asphalt paving, and other services. More specifically, Defendants 1) falsely claim to offer reduced prices because they have materials left over from another job, 2) fail to perform services in a workmanlike manner and fail to remedy shoddy work or provide refunds for it, 3) represent that work is guaranteed when it is not, 4) fail to provide written notice of the purchaser's right to revoke a door-to-door sale, and 5) falsely claim to be licensed, bonded, and insured. Each of these acts constitutes a violation of one or more provisions of Alaska's Unfair Trade Practices and Consumer Protection Act, AS 45.50.471 et seq., including AS 45.50.471(b)(6) which prohibits representing that goods or services are of a particular standard, quality, or grade if they are of another standard, quality or grade.

**COUNT V**

**AS 45.50.471(b)(11)**

23. Paragraphs 1 through 22 are incorporated by reference.

24. In the course of Defendants' conduct described herein, Defendants engaged in, and are engaging in, unfair or deceptive acts or practices and an unfair method of competition in connection with offering, selling, and providing sealcoating, asphalt paving, and other services. More specifically, Defendants 1) falsely claim to

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offer reduced prices because they have materials left over from another job, 2) fail to perform services in a workmanlike manner and fail to remedy shoddy work or provide refunds for it, 3) represent that work is guaranteed when it is not, 4) fail to provide written notice of the purchaser's right to revoke a door-to-door sale, and 5) falsely claim to be licensed, bonded, and insured. Each of these acts against each of these defendants constitutes a violation of one or more provisions of Alaska's Unfair Trade Practices and Consumer Protection Act, AS 45.50.471 et seq., including AS 45.50.471(b)(11) which prohibits engaging in conduct creating a likelihood of confusion or of misunderstanding and which misleads, deceives or damages a buyer in connection with the sale or advertisement of goods or services.

#### **COUNT VI**

#### **AS 45.50.471(b)(12)**

25. Paragraphs 1 through 24 are incorporated by reference.

26. In the course of Defendants conduct described herein, Defendants engaged in, and are engaging in, unfair or deceptive acts or practices and an unfair method of competition in connection with offering, selling, and providing sealcoating, asphalt paving, and other services. More specifically, Defendants 1) falsely claim to offer reduced prices because they have materials left over from another job, 2) fail to perform services in a workmanlike manner and fail to remedy shoddy work or provide refunds for it, 3) represent that work is guaranteed when it is not, 4) fail to provide written notice of the purchaser's right to revoke a door-to-door sale, and 5) falsely claim to be licensed, bonded, and insured. Each of these acts against each of these defendants constitutes a violation of one or more provisions of Alaska's Unfair Trade

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Practices and Consumer Protection Act, AS 45.50.471 et seq., including AS 45.50.471(b)(12) which prohibits using or employing fraud, deception, false pretense, false promise, misrepresentation, or knowingly concealing, suppressing, or omitting a material fact with the intent that others rely on upon the concealment, suppression, or omission in connection with the sale or advertisement of goods or services whether or not a person has been misled, deceived, or damaged.

## **COUNT VII**

### **AS 45.50.471(b)(22)**

27. Paragraphs 1 through 26 are incorporated by reference.

28. In the course of Defendants conduct described herein, Defendants engaged in, and are engaging in, unfair or deceptive acts or practices and an unfair method of competition in connection with offering, selling, and providing sealcoating, asphalt paving and other services. More specifically, Defendants 1) falsely claim to offer reduced prices because they have materials left over from another job, 2) fail to perform services in a workmanlike manner and fail to remedy shoddy work or provide refunds for it, 3) represent that work is guaranteed when it is not, 4) fail to provide written notice of the purchaser's right to revoke a door-to-door sale, and 5) falsely claim to be licensed, bonded, and insured. Each of these acts against each of these defendants constitutes a violation of one or more provisions of Alaska's Unfair Trade Practices and Consumer Protection Act, AS 45.50.471 et seq., including AS 45.50.471(b)(22) which prohibits the failure to provide written notice to consumers of their right to revoke a contract for services offered through a door-to-door solicitation

within five business days of entering into the contract, in violation of Alaska's Door-to-Door Solicitation statute, AS 45.02.350.

### **COUNT VIII**

#### **FTC's Cooling Off Rule, 16 C.F.R. 429**

29. Paragraphs 1 through 28 are incorporated by reference.

30. In the course of Defendants conduct described herein, Defendants engaged in, and are engaging in, unfair or deceptive acts or practices and an unfair method of competition in connection with offering, selling, and providing sealcoating, asphalt paving and other services. More specifically, Defendants 1) falsely claim to offer reduced prices because they have materials left over from another job, 2) fail to perform services in a workmanlike manner and fail to remedy shoddy work or provide refunds for it, 3) represent that work is guaranteed when it is not, 4) fail to provide written notice of the purchaser's right to revoke a door-to-door sale, and 5) falsely claim to be licensed, bonded, and insured. Each of these acts against each of these defendants constitutes a violation of one or more provisions of Alaska's Unfair Trade Practices and Consumer Protection Act, AS 45.50.471 et seq., by failing to provide written notice to consumers of their right to revoke a contract for services offered through a door-to-door solicitation, in violation of the Federal Trade Commission's Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations (the Cooling Off Rule), 16 C.F.R. Part 429.

### **DEMAND FOR JUDGMENT**

WHEREFORE, the State of Alaska asks this court to enter judgment

against the Defendants as follows:

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1. Pursuant to AS 45.50.50, enjoining Defendants, and all who act under, by or through Defendants, from continuing to engage in the unlawful conduct alleged in this complaint;
2. Ordering Defendants, pursuant to AS 45.50.501(b), to restore any person, any money or property which may have been acquired through the unlawful conduct alleged in this complaint, and which has not yet been restored to such person(s).
3. Pursuant to AS 45.50.551(b), awarding civil penalties of \$25,000 against Defendants for each violation of AS 45.50.471;
4. Awarding full reasonable costs and attorneys' fees to the State of Alaska; and
5. Granting such additional relief as the court may deem proper.

DATED this 17<sup>th</sup> day of August, 2012, at Anchorage, Alaska.

MICHAEL C. GERAGHTY  
ATTORNEY GENERAL

By: \_\_\_\_\_  
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