

5. One-Call, pursuant to SDCL 49-7A-17, has the authority to receive complaints against persons who violate provisions of SDCL chapter 49-7A and rules promulgated by One-Call and, pursuant to SDCL 49-7A-18 and 49-7A-19, assess civil penalties against persons found to have violated these laws.

6. On July 31, 2012, pursuant to SDCL 49-7A-17, One-Call received complaint filed by Watertown Municipal Utilities against Defendant.

7. A five member panel (the "Panel") was, therefore, appointed by the Chairman of One-Call pursuant to SDCL 49-7A-22 to determine whether probable cause existed to believe violations of SDCL 49-7A-5 and ARSD 20:25:03:05.03 occurred as alleged in the Complaint. The panel found probable cause to believe that the violations occurred.

8. A copy of the One-Call Panel's recommendations was sent to the parties. Defendant failed to respond to the recommendations or request a hearing.

9. Defendant's failure to request a hearing constitutes acceptance of the Panel's recommendation per SDCL 49-7A-27.

10. The Panel's recommendation included a suspended fine based on Defendant's compliance with certain conditions, including payment of the portion which was not suspended. The portion of the fines that was not suspended totaled \$12,500. The suspended portion was \$2,500. Defendant paid only \$2,500 of the fine. Failure to satisfy the aforementioned condition resulted in civil penalties against Defendant in the First Complaint of \$12,500.

A complete copy of the recommendations of the Panel in OC12-012 is attached as Exhibit B.

11. One-Call adopted the recommendations of the Panel on October 3, 2012. The Order, incorporating the conditions, was sent to Defendant on October 4, 2012. Defendant neither appealed the One-Call decision nor met the conditions in the Order, and accordingly, owes \$12,500 in civil penalties.

12. One-Call made a written demand to Defendant for payment of the civil penalties as required by SDCL 49-7A-33. The demand letter was sent to Defendant on November 9, 2012.

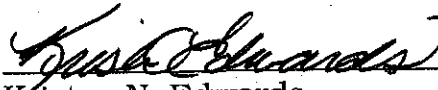
13. At the request of One-Call, the Commission brought an action in the court against Defendant to recover such penalty in accordance with SDCL 49-7A-28.

14. Defendant has neither paid the entirety of the fine to the Commission nor One-Call in satisfaction of the \$12,500 civil fine levied by One-Call. Further, Defendant has not given any indication to the Commission or One-Call that he intends to pay the fines.

WHEREFORE, Plaintiff requests that the Court enter judgment by default against Defendant as follows:

1. For a monetary judgment in the amount of \$12,500 against Defendant.

Dated this 14th day of April, 2013.



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