STATE OF NORTH CAROLINA	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION
COUNTY OF WAKE	File No
IN RE:) ORDER TO SHOW CAUSE
TOMMY EDWARD CLACK) FOR CRIMINAL CONTEMPT) OF COURT

This Show Cause Order is issued by Wake County Superior Court Judge Michael J. O'Foghludha requiring Tommy Edward Clack to appear before the Honorable Donald W. Stephens, Senior Resident Superior Court Judge, on the 27th day of June, 2011, at 10:00 o'clock a.m., in Courtroom ______/Oc__ of the Wake County Courthouse, Raleigh, NC, or in such other courtroom or at such other time as designated by Judge Stephens, and show cause why he should not be held in criminal contempt of court pursuant to N.C. Gen. Stat. § 5A-11, et seq. as enumerated below.

- 1. On May 27, 2011, at 9:30 a.m., after being ordered to do so, and with due notice and ample time to prepare, defendant Tommy Edward Clack allegedly knowingly, intentionally and without justification failed to appear before the undersigned Judge in Wake County Superior Court to show cause why he should not be held in civil contempt for violating an injunction entered against him on June 8, 2010 in a deceptive trade practices action entitled, State of North Carolina, ex rel. Roy Cooper, Attorney General, versus Tommy Edward Clack, et al. The Wake County Superior Court file number for that proceeding is 07 CVS 07752.
- 2. The injunction of June 8, 2010, which Tommy Edward Clack appears to have violated, was entered in the aforesaid cause by the Honorable Robert H. Hobgood, Superior Court Judge. It permanently banned Tommy Edward Clack from performing or offering to perform residential driveway paving services in the state of North Carolina.
- 3. In the aforesaid civil action, Judge Carl R. Fox, Wake County Superior Court Judge, by means of an order dated April 14, 2011, directed Tommy Edward Clack to appear on April 25, 2011 and show cause why he should not be held in contempt for twice violating the injunction entered by Judge Hobgood. The show cause hearing was continued two times so that Tommy Edward Clack could obtain new counsel in that civil matter and so that his new counsel could acquaint himself with the case and the evidence.
- 4. The aforesaid civil contempt hearing was set before the undersigned Judge at 10:00 o'clock a.m. on May 25, 2011. At that time, the undersigned Judge advised counsel for Tommy Edward Clack and counsel for the State of North Carolina that he could not conduct the show-cause hearing that day and that he would take the matter up at 9:30 a.m. on May 27. Neither party objected to that new hearing date and time.

- 5. At 9:30 on May 27, 2011, plaintiff's counsel and his witness were present, counsel for Tommy Edward Clack was present, but Tommy Edward Clack was not present.
- 6. At that time, counsel for Tommy Edward Clack advised the undersigned Judge that he had been in communication with his client, that Mr. Clack was aware that the show cause hearing was to occur that morning, and that Mr. Clack would not be appearing. Counsel for Mr. Clack did not specify or allude to any reason for Mr. Clack's absence, nor did he request another continuance.
- 7. At the hearing which proceeded at that time, it appeared to the undersigned that Mr. Clack had willfully failed to appear for the hearing, and further evidence was presented which tended to show that Mr. Clack had violated Judge Hobgood's injunction dated June 8, 2010, prohibiting Mr. Clack from performing or offering to perform residential driveway paving services.

IT IS THEREFORE ORDERED that Tommy Edward Clack appear at the time and place specified above and show cause, if any there might be, why he should not be held in contempt of Court under the provisions of N.C. Gen. Stat. § 5A-11(a)(3) for deliberately failing to appear in Court as directed and by performing or offering to perform residential driveway paving services in violation of Judge Hobgood's order.

IT IS FURTHER ORDERED that, pursuant to N.C. Gen. Stat. § 5A-15(g), North Carolina Assistant Attorney General David N. Kirkman is hereby appointed to prosecute this case.

This the day of June, 2011.

Michael J. O'Foghludha

Superior Court Judge

RETURN OF SERVICE

I hereby certify that the foregoing Order to Show Cause was served upon Tommy Edward Clack in the following manner:	
Date of Service:	
Time of Service:	
	(Name of Sheriff of Other Official/Agency)
	By
	Officer's Title:
Date:	·