



BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF

ACRI, INC. D/B/A
THE ACRI COMPANY;
TIMOTHY M. ACRI.

Respondents.

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) Division Case No. 108126
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)
) **SUMMARY CEASE AND**
) **DESIST ORDER**
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On January 4, 2021, Compliance Attorney Adam Kenworthy, on behalf on the Iowa Insurance Division (“Division”), submitted a petition requesting the issuance of a summary cease and desist order.

NOW THEREFORE, the Commissioner of Insurance, Douglas M. Ommen, pursuant to the provisions of Iowa Code chapter 522C—Licensing of Public Adjusters and Iowa Administrative Code chapter 191—55, Licensing of Public Adjusters, does hereby make and issue the following findings of fact, conclusions of law and summary cease and desist order (“Order”):

I. PARTIES AND JURISDICTION

1. The Commissioner of Insurance, Douglas M. Ommen, directly and through his designees, administers and enforces Iowa Code chapter 522C—Licensing of Public Adjusters and Iowa Administrative Code chapter 191—55, Licensing of Public Adjusters.

2. Acri Inc., doing business as The Acri Company (“Acri”) is an Iowa corporation with its principal office located at 124 E 18th Street, PO Box 737, Milan, Illinois, 61264.

3. Timothy M. Acri is president of Acri and resides at 6435 Fairhaven Road, Davenport, Iowa, 52807.
4. Pursuant to Iowa Code § 505.28, Respondents have consented to the jurisdiction of the Commissioner of Insurance by committing acts governed by Iowa Code chapter 522C.
5. On or about July 6, 2020, Respondents engaged in acts and practices within the state of Iowa constituting cause for a summary order to cease and desist from engaging in such acts or practices and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code § 505.8(10), Iowa Code chapter 522C, and rules adopted pursuant to this chapter.

II. FACTUAL ALLEGATIONS

6. Acri's website describes its business as, "Serving the Replacement Windows, Siding, Bath Remodeling, and Roofing needs of Illinois, Iowa, and Wisconsin since 1967."
7. Acri's principal place of business is located in Milan, Illinois.
8. Acri is not a licensed public adjuster in the state of Iowa.
9. Acri's website lists Timothy M. Acri, as "Tim Acri" with the title of "Sales."
10. Timothy M. Acri is not a licensed public adjuster in the state of Iowa.
11. On April 7, 2020, a hail storm damaged the roof and siding on Consumer BH's home in Davenport, Iowa.
12. On April 7, 2020, BH filed a claim with his insurance company, Western National Insurance Group ("Western National").
13. Western National hired North-Central Adjustment Company ("North-Central") to handle the claim inspection for BH's home. North-Central determined that hail had damaged the siding

on the right side of BH's home as well as part of the roof. Due to line of sight considerations, North-Central included siding on the back and front of BH's home in its claim estimate.

14. On May 14, 2020, JA, an employee of Acri, emailed the Division seeking information on Iowa Administrative Code rule 191-15.44.

15. On May 20, 2020, an employee of the Market Regulation Bureau of the Division sent an email to JA providing general information on rule 191-15.44.

16. On July 6, 2020, Respondent Timothy M. Acri sent an email to Western National's "PC Claims" account. The subject line of the email was the Western National claim number for BH. The heading of the email was titled with BH's name and address. In the email, Timothy M. Acri stated that BH had contracted with Acri to do "storm restoration work."

17. The substance of the email was as follows:

He's given us the adjustment for damages done by North Central Adjustment Company. Everything appears to be OK except the left elevation was the only elevation not included in the damage adjustment. I've attached a picture of the front and left elevation as taken from the street. The front and left elevation can be seen from the street from the same line of sight and therefore should be included in the adjustment. I've attached an email from [Market Regulation employee] of the Iowa Insurance Division and the actual Iowa Code regarding the Line of Sight provision.

1. The left elevation and the front elevation can both be seen on the same line of sight. Therefore both elevations need to be replaced or the home will be devalued due to 2 different kinds of siding on the house.
2. Lets [sic] assume that the left and front elevation could not be seen on the same line of sight. Even if that were true, and it's not, the corner post would need to be changed out with new. In order to replace the corner post we would need to take down the entire left elevation as the current corner post is nailed behind it. This would result in damaged panels.

The left elevation would add 576 sq feet of siding to the adjustment.

R&R Siding Vinyl 576 sq ft X 3.90 (tax included) = \$2246.40 R&R House
Wrap 576 sq ft X .37 (ta included) = \$213.12

TOTAL Increase in adjustment = \$2459.52

18. On July 10, 2020, BH signed a “Cash Terms Contract” with Acri for restoration work on his home. The total price stated in the contract was \$13,759.00.
19. Western National did not pay the additional \$2,459.52 to replace the siding on the left side of BH’s home, as requested by Respondents.
20. In an interview with the Division, Timothy M. Acri confirmed that he sent the July 6, 2020, email to Western National.
21. Respondents fully cooperated with the Division’s investigation.

III. VIOLATIONS

COUNT I Unlicensed Public Adjuster

22. Iowa Code § 522C.4 states a “person shall not operate as or represent that the person is a public adjuster in this state unless the person is licensed by the commissioner in accordance with this chapter.”
23. Iowa Code § 522C.2(7) provides that:

“Public adjuster” means any person who for compensation or any other thing of value acts on behalf of an insured by doing any of the following:

- a. Acting for or aiding an insured in negotiating for or effecting the settlement of a first-party claim for loss or damage to real or personal property of the insured.
- b. Advertising for employment as a public adjuster of first-party insurance claims or otherwise soliciting business or representing to the

public that the person is a public adjuster of first-party insurance claims for loss or damage to real or personal property of an insured.

c. Directly or indirectly soliciting business investigating or adjusting losses, or advising an insured about first-party claims for loss or damage to real or personal property of the insured.

24. Respondents emailed Western National on July 6, 2020, acting for and advocating on behalf of an insured in negotiating the settlement of a first-party claim.

25. On July 6, 2020, Respondents were not licensed public adjusters in the state of Iowa.

26. Respondents' acts and practices have been in violation of Iowa Code § 522C.4, subjecting Respondents to an order requiring Respondents to cease and desist from engaging in such acts or practices and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 505.8, 507A, 522C.4, 522C.

IV. POLICY REASONS

27. The purpose of a public adjuster is to assist the insured in negotiating a fair settlement of an insurance claim. A public adjuster's license imputes specific duties of care and statutory responsibilities that a public adjuster must follow in serving the interests of the insured. Therefore, it is in the public interest for the Commissioner to enforce the insurance laws of this state that require all persons acting as public adjusters be properly licensed.

V. ORDER

WHEREFORE, IT IS ORDERED pursuant to the powers granted to the Commissioner of Insurance by Iowa Code chapters 505 and 522C:

A. Respondents, pursuant to Iowa Code § 522C.6, shall immediately cease and desist from acting for or aiding any insureds in negotiating for or effecting the settlement of

first-party claims of loss; from directly or indirectly soliciting business investigating or adjusting losses, or advising any insureds about first-party claims for loss or damage to real or personal property in the state of Iowa, and shall cease and desist from any and all other acts or practices in the state of Iowa that require licensure as a public adjuster;

B. This Order is intended to include and bind any and other business entities, employees and agents of Respondents.

SO ORDERED on the 5th day of January, 2021.



DOUGLAS M. OMMEN
Iowa Insurance Commissioner

Copies to:

CERTIFICATE OF SERVICE

Iowa Secretary of State
First Floor, Lucas Building
321 E 12th St
Des Moines, IA 50319
Via email for service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause, or their attorney, at their respective addresses disclosed on the pleadings on January 5, 2021.

By: First Class Mail Personal Service
 Restricted certified mail, return receipt Email, by consent
 Certified mail, return receipt Email to Iowa SOS for service

The Acri Company
124 E 18th St
PO Box 737
Milan, IL 61264

Signature: /s/ Hilary Foster
Hilary Foster

Timothy M. Acri
6435 Fairhaven Rd
Davenport, IA 52807

NOTICE OF RIGHT TO REQUEST HEARING

YOU ARE NOTIFIED that you may request a contested case proceeding and a hearing on this matter within thirty (30) days from the date that the order is issued according to Iowa Code § 507B.6A. This request must be filed to the attention of the Enforcement Bureau: **enforcement.filings@iid.iowa.gov**.

If requested, a notice of the hearing shall be prepared by the Division and shall be issued no later than thirty (30) days from the date of receipt of a timely request for a contested case proceeding and hearing. The resulting hearing will be held in accordance with Iowa Administrative Code chapter 191—3.

NOTICE OF FINAL ORDER AND FAILURE TO REQUEST A HEARING

If you fail to request a hearing within thirty (30) days of the date of this Cease and Desist Order, the Order shall become final by operation of law and shall be enforceable by the Commissioner of Insurance in an administrative or court proceeding.

NOTICE OF EXHAUSTION OF ADMINISTRATIVE REMEDIES AND RIGHT TO SEEK JUDICIAL REVIEW

The failure to request a hearing may constitute a failure to exhaust your administrative remedies and limit the issues subject to judicial review. You may seek judicial review of this Order pursuant to Iowa Code Chapter 17A after the Order becomes final.

NOTICE OF PENALTIES FOR VIOLATION OF THIS ORDER

YOU ARE NOTIFIED that a person or insurer who violates this Order shall be deemed

in contempt of this Order. The Commissioner may petition the district court to hold a hearing to enforce the order as certified by the Commissioner. The district court may assess a civil penalty against you and may issue further orders as it deems appropriate