

**BEFORE THE MONTANA STATE AUDITOR
COMMISSIONER OF SECURITIES AND INSURANCE**

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)	
IN THE MATTER OF CHARLES)	CASE NO.: INS-2015-238
KARTCHNER and RIMROCK ROOFING,)	
)	FINAL AGENCY DECISION BY DEFAULT
Respondents.)	
)	
)	

On March 31, 2016, the Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI), filed a Notice of Proposed Agency Disciplinary Action and Opportunity for Hearing (Notice) against Respondents Charles Kartchner and Rimrock Roofing (collectively "Respondents"). The Notice alleged that Respondents violated the Montana Insurance Code, Mont. Code Ann. § 33-1-101 et seq. (the Code).

On March 31, 2016, the CSI served the Notice to Respondent at his last known address by mail. Respondent has failed to plead or otherwise defend in this matter. On September 6, 2016, the CSI moved for entry of a final agency decision by default against Respondents.

Based upon the CSI's motion and attached Affidavit of Bryan Stanley, the Commissioner of Securities of Insurance, Montana State Auditor (Commissioner), makes the following determinations:

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FINDINGS OF FACT

1. Charles Kartchner (Kartchner) is the proprietor of Rimrock Roofing (Rimrock) whose principal place of business is 1430 County Manor Blvd, #1, Billings, Montana, 59102.

2. Neither Respondent is licensed in any capacity by the CSI.

3. On February 17, 2016, the Respondents' website, www.rimrockroofing.com, represented:

(a) that a free upgrade to a type of shingle would “permanently lower your insurance premiums.”

(b) that Rimrock “[o]ffers insurance claims experts to assist with any short comings on your hail damage estimate.”

(c) that “[a] seasoned Project Manager will walk you through the entire storm damage claim and repair process.”

CONCLUSIONS OF LAW

1. The CSI has jurisdiction over this matter. § 33-1-311.

2. The CSI administers the Insurance Department to protect insurance consumers. § 33-1-311(3).

3. A person or entity may not transact the business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the Montana Insurance Code. § 33-1-102(1).

4. A person is an individual, insurer, company, association, organization, Lloyd's, society, reciprocal, or interinsurance exchange, partnership, syndicate, business trust, corporation, or any other legal entity. § 33-1-102.

5. "Transact," with respect to insurance, includes any of the following: (a) solicitation and inducement; (b) preliminary negotiations; (c) effectuation of a contract of insurance; or (d) transaction of matters subsequent to effectuation of the contract of insurance and arising out of it." § 33-1-201.

6. An adjuster is a person who, on behalf of the insurer, for compensation as an independent contractor, or for a fee or commission investigates and negotiates the settlement of claims arising under insurance contracts or otherwise acts on behalf of the insurer. § 33-17-102(1)(a)

7. A public adjuster is an adjuster employed by and representing the interests of the insured. § 33-17-102(21).

8. An individual may not act as or purport to be an adjuster in this state unless licensed as an adjuster. § 33-17-301(1).

9. Respondents violated § 33-17-301(1) by acting or purporting to act as independent adjusters by indicating on the Rimrock website that Rimrock could negotiate and assist with the insurance claims process.

10. Pursuant to § 33-18-203, a person may not make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication or in the form of a notice, circular, pamphlet, letter, or poster or over any radio or television station or in any other way, an advertisement, announcement, or statement containing any assertion, presentation, or statement with respect to the business of insurance or with respect to any person in the conduct of the person's insurance business that is untrue, deceptive, or misleading.

11. Respondents violated § 33-18-203 by representing on Rimrock's website that installation of Class 4 shingles would permanently lower insurance premiums, and that Rimrock was able to actively assist in the claims process.

12. Pursuant to § 33-1-317, the Commissioner may impose a fine not to exceed \$5,000 upon a person found to have violated the Code.

ORDER

Based on those findings of fact and conclusions of law, it is ORDERED that:

1. Respondents shall each pay a fine of \$1,500 to the Montana State Auditor's Office, 840 Helena Avenue, Helena, MT 59601;
2. All fines must be paid no later than thirty (30) days from the date of this order.

DATED this 15th of September, 2016.



MONICA J. LINDEEN
Montana State Auditor,
Commissioner of Securities and Insurance

cc: Mike Winsor
Charles Kartchner