

**IN THE MATTER OF THE FINANCIAL INSTITUTIONS ACT
R.S.B.C. 1996, C. 141, AS AMENDED**

- AND -

**IN THE MATTER OF
CENTENNIAL INSURANCE COMPANY A.V.V. S.A. (Costa Rica)
dba CIC INSURANCE COMPANY A.V.V. (Costa Rica)
RICHARD ALDEN WHITNEY, DAVID WILLIAM KING, RICHARD BELL AND
AFIF NAJIA**

ORDER UNDER SECTION 253.1

WHEREAS it appears to the Superintendent of Financial Institutions (the "Superintendent") that:

1. On November 24, 2004, the Superintendent issued a Cease and Desist Order directing Centennial Insurance Company A.V.V. S.A. dba CIC Insurance Company A.V.V. ("CIC") to "...cease from either directly or indirectly carrying on insurance business in British Columbia," and directing Special Risk Insurance Brokers Ltd. ("Special Risk") and Ray Willie to "...cease from either directly or indirectly soliciting residents of British Columbia for insurance contracts on behalf of unauthorized businesses including Centennial Insurance Company A.V.V. S.A dba CIC Insurance Company A.V.V".
2. On November 24, 2004, the Superintendent issued an Order freezing a Special Risk Bank of Montreal account held "In Trust for CIC Insurance Co." At the time of the Superintendent's Order the account had a balance of \$505,335.43.
3. The Superintendent's Order of November 24, 2004, was amended and reissued on December 21, 2004, to include the words, "...and the actions and conduct of Centennial Insurance Company A.V.V. S.A. might reasonably be expected to harm the interests of the insured".

4. On May 19, 2005, CIC and its principals, Richard Alden Whitney, David William King, Richard Bell, and Afif Najia entered into an Undertaking under section 208 of the Financial Institutions Act (the "Act") with the Superintendent that they would not dispute or interfere with adjusting decisions of CIC's adjuster(s) appointed in accordance with the May 19, 2005, Consent Order, and that they would accept and make payments on claims as recommended by the appointed adjuster(s) using funds other than those frozen by the Superintendent.
5. Cunningham Lindsey Canada Ltd. (the "Adjuster") was appointed under the May 19, 2005, Consent Order as an approved adjuster to adjust claims with respect to British Columbia insureds and risks.
6. [REDACTED] is a British Columbia corporation.
7. [REDACTED] was an insured under CIC policy number [REDACTED].
8. On October 28, 2004, [REDACTED] renewed its insurance policy with CIC for a one year term with a premium of \$25,175. This premium was paid with an initial deposit and then with monthly cheques, payable to Special Risk until the premium was fully paid with the last cheque on August 20, 2005.
9. On September 13, 2005, one of [REDACTED] accidentally struck a conveyor belt, the property of [REDACTED] in Chilliwack, British Columbia. [REDACTED] claims it expensed approximately \$190,000 to repair the conveyor belt.
10. [REDACTED] made a claim under its CIC policy for approximately \$190,000 as a result of the September 13, 2005, accident.
11. The Adjuster investigated and adjudicated [REDACTED] claim and adjusted the amount of the claim to \$150,132.54.
12. On or about December 19, 2005, the Adjuster requested that CIC pay the [REDACTED] claim in the amount of \$150,132.54.
13. CIC did not pay the claim as requested by the Adjuster.
14. On February 22, 2006, [REDACTED] lawyer sent a letter to CIC making a direct demand for payment of the adjusted claim.
15. CIC did not pay the claim as demanded in the lawyer's letter.

16. As a result of CIC's failure or refusal to pay ██████ adjusted claim, ██████ sought a judicial remedy through the British Columbia courts.
17. On March 27, 2006, The Honourable Mr. Justice Joyce of the Supreme Court of British Columbia – Chilliwack granted ██████ a Default Judgement Order for damages against CIC in the amount of \$150,132.54 to pay the adjusted claim, plus \$400 in costs. The funds to pay ██████ for the damages were to be paid out of funds frozen by the Superintendent's Order of November 24, 2004, and held in the Bank of Montreal.

CIC and its principals failed or refused to pay ██████ claim when payment was requested by the Adjuster and/or demanded by ██████ lawyer. Therefore, the Superintendent finds that CIC and its principals each committed a breach of the Order and Undertaking they agreed to on May 19, 2005.

The Superintendent is of the opinion that a breach of an Order of the Superintendent is extremely serious misconduct. This conduct is a significant aggravating factor in considering sanctions.

WHEREAS the Financial Institutions Commission has delegated to the Superintendent the powers and duties under section 244 and 253.1 of the Act in the Instrument of Delegation executed June 2, 2005.

AND WHEREAS the Superintendent considers:

1. The conduct of CIC and its Principals that gave rise to the Cease and Desist Orders, the Freeze Order and the Consent Order of May 19, 2005 and Undertakings contained therein, was a sufficiently serious contravention of the Act as to cause the Superintendent to sign Orders and accept undertakings to deal with the conduct.
2. This breach of the Undertakings threatens to damage the integrity of financial markets and authorized financial institutions that conduct business under the regulatory laws of British Columbia.
3. CIC and its Principals having executed the Consent Order and providing the Undertakings, in failing to pay the claim of ██████ as adjudicated by the appointed Adjuster demonstrates a wonton disregard for the regulatory environment and a disregard for the laws of British Columbia.
4. CIC and its Principals have placed British Columbia insureds at further risk in their mishandling of ██████ claim.
5. It is appropriate to sanction CIC and its Principals to deter them and others from similar misconduct.

6. The maximum penalty under the Act is \$50,000 for a corporation and \$25,000 for individuals. The fact that this single claim was over \$150,000 and that ██████ paid CIC, through a British Columbia agent, \$25,175 in premiums, for a one year term, is a significant aggravating factor.
7. Therefore, I order Centennial Insurance Company A.V.V. S.A. doing business as CIC Insurance Company A.V.V. to pay an administrative penalty in the amount of \$50,000 pursuant to section 253.1 of the Act, within 30 days from the date of receipt of this order.
8. I further order each of the Principals of CIC, namely: Richard Alden Whitney, David William King, Richard Bell and Afif Najia, as the controlling minds, officers and shareholders of CIC, since they agreed to give their individual Undertakings in the Consent Order to abide by its terms, to pay an administrative penalty in the amount of \$25,000 each pursuant to section 253.1 of the Act, within 30 days from the date of receipt of this Order.
9. In coming to my decision I have considered the following cases referred to me by staff:
 - (a) *Corporate Express Inc.*, BCSECCOM 153, March 20, 2006.
 - (b) *Danh Van Nguyen and Express Mortgages Ltd.*, Financial Services Tribunal, July 20, 2005.
 - (c) *Cartaway Resources Corp. (Re)*, Supreme Court of Canada, [2004] 1 S.C.R. 672.
 - (d) *British Columbia Securities Commission v. Research Capital Corp.*, British Columbia Court of Appeal, [2004] B.C.J. No. 1128.
 - (e) *British Columbia Securities Commission v. Hogan*, British Columbia Court of Appeal, [2005] B.C.J. No. 131.

TAKE NOTICE THAT each of Centennial Insurance Company A.V.V. S.A. doing business as CIC Insurance Company A.V.V. and Richard Alden Whitney, David William King, Richard Bell and Afif Najia, , may appeal this order to the Financial Services Tribunal under section 242(1)(a) of the Act.

Dated at the
City of Surrey,
Province of British Columbia,
This 18th day of May, 2006



W. Alan Clark
Superintendent of Financial Institutions
Province of British Columbia

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ADVISORY

Please note that "Richard Bell" in regards to CIC Insurance Company A.V.V. and Centennial Insurance Company A.V.V. S.A. refers to "Richard Locke Bell".