
**DIRECTOR'S ORDER UNDER SECTION 157
OF THE *FAIR TRADING ACT*
TO
WILLIAM LANCEN FLUCKIGER OPERATING AS FLUCKIGER CARPENTRY
AND TO
ANY EMPLOYEE, REPRESENTATIVE, OR AGENT
OF WILLIAM LANCEN FLUCKIGER**

This Director's Order was issued under s. 157 of the *Fair Trading Act* in response to, in the opinion of the Director, contraventions of the Act. As mandated by s. 157.1 of the *Fair Trading Act*, this Director's Order is part of the public record.

For more information on the Fair Trading Act, business licensing in Alberta or to search for a licensed business, please click here:

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WILLIAM LANCEN FLUCKIGER OPERATING AS FLUCKIGER CARPENTRY

AND TO

**ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF
WILLIAM LANCEN FLUCKIGER**

ISSUE

On or about September 26, 2014, William Lancen Fluckiger attended a consumer's residence where he negotiated and concluded a prepaid contract with the consumer for renovations and upgrades to the exterior of a home. A written contract was not provided or signed. William Lancen Fluckiger accepted a deposit in the amount of \$5,000 on September 26, 2014 and a deposit of \$14,000 on October 14, 2014. The renovation project was not completed until the end of November 2014. Mr. Fluckiger did not possess a prepaid contracting business licence at the time of these transactions.

During part of this transaction, Mr. Fluckiger was using the trade name "Fluckiger Carpentry." On December 23, 2014 the consumer sent Mr. Fluckiger a cancellation notice due to the lack of a prepaid contracting licence.

This activity constitutes a "prepaid contracting business" requiring a person or business to be licensed under Section 104(1) of the *Fair Trading Act*. A Prepaid Contracting Business means the activities of soliciting, negotiating or concluding in person, at any place other than the seller's place of business, a construction or maintenance contract in which all or part of the contract price is to be paid before all of the goods or services called for in the contract are provided.

A "Construction or Maintenance Contract" in part means a contract for the purposes of constructing, altering, maintaining, repairing, adding to or improving a person's own private dwelling or a structure/building located on the same property, used in conjunction with the person's own private dwelling or improving real estate property to be used in connection with the person's own private dwelling/building/structure.

When a business enters into a prepaid contract to provide goods and services worth \$200 or more, this contract must be in writing and include specific terms required by the Prepaid Contracting Business Licensing Regulation and *Fair Trading Act*. When a contractor enters into a prepaid contract without the proper licence, the consumer may cancel the contract up to one year from the date the contract was concluded. If the consumer cancels, the contractor has fifteen days to return all money paid to the consumer after which the consumer and contractor can work out the amount owing for work already done.

William Lancen Fluckiger has entered into a prepaid contract with a consumer without holding a prepaid contracting business license, and did not include all required terms in that prepaid contract. As of March 6, 2015 he was informed of the prepaid contracting license requirement. Although Mr. Fluckiger has stated he will cease operating as a prepaid contractor, and will obtain a license if he does operate this way in the future, there is the potential he may enter into prepaid contracts with residential consumers in the future without a license, in violation of the *Fair Trading Act*. In addition, he did not refund the deposits to the consumer within fifteen days of cancellation, as required.

As of August 12, 2015, neither Mr. William Lancen Fluckiger nor Fluckiger Carpentry possesses a prepaid contracting business license with Service Alberta.

ORDER

- William Lancen Fluckiger whether in his own capacity or when acting on behalf of a corporation which he represents, or in which he has an interest, must immediately:
 - cease from entering into prepaid contracts (accepting down payments, deposits or progress payments before the work is fully completed on contracts solicited, negotiated or concluded in person away from the company's place of business) with residential consumers until the licensing requirements have been met;
 - ensure that all prepaid contracts are in writing and include the terms required by the Prepaid Contracting Business Licensing Regulation and *Fair Trading Act*; and
 - ensure refunds are provided to consumers who cancel as allowed by the *Fair Trading Act*.

- Any employee, representative, agent or associate of William Lancen Fluckiger must immediately:
 - cease from entering into prepaid contracts (accepting down payments, deposits or progress payments before the work is fully completed on contracts solicited, negotiated or concluded in person away from the company's place of business) with residential consumers until the licensing requirements have been met;
 - ensure that all prepaid contracts are in writing and include the terms required by the Prepaid Contracting Business Licensing Regulation and *Fair Trading Act*; and

- ensure refunds are provided to consumers who cancel as allowed by the *Fair Trading Act*.

NON COMPLIANCE WITH ORDER

- **ANY PERSON WHO FAILS TO COMPLY WITH AN ORDER OF THE DIRECTOR UNDER SECTION 157 OF THE *FAIR TRADING ACT* CONTRAVENES THIS ACT AND IS GUILTY OF AN OFFENCE ANY MAY BE PROSECUTED PURSUANT TO SECTION 163 OF THE *FAIR TRADING ACT*.**



Scott Hood
Director of Fair Trading (as delegated)
August 12, 2015