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MONTANA STATE AUDITOR'S OFFICE
INSURANCE DEPARTMENT
HELENA, MONTANA

IN THE MATTER OF:	*	Case No.: 2002-16
	*	
THOMAS S. VANDERSLOOT,	*	CONSENT AGREEMENT AND
	*	FINAL ORDER
Respondent.	*	
	*	

I.

Insurance Code of Montana, § 33-1-101, et seq., MCA, determines that there is probable cause to believe that the following allegations, if true, justify and support The Montana Insurance Commissioner (Commissioner), pursuant to the authority of the disciplinary treatment.

ALLEGATIONS

1. At all times relevant hereto, Respondent Thomas S. Vandersloot was the owner of a 1994 GMC Suburban Sport Wagon, VIN: [REDACTED]. Respondent purchased the vehicle on October 11, 2000

2. Respondent obtained insurance coverage on the vehicle on October 20, 2000. Respondent failed to make the vehicle available for inspection as requested by his insurance agent, [REDACTED] at the time he obtained coverage on the vehicle. In obtaining coverage for the vehicle, Respondent did not advise [REDACTED] that he had previously been involved in an accident while driving the vehicle.

3. On October 23, 2000, Respondent contacted [REDACTED] and reported he had been involved in an accident with the vehicle. According to [REDACTED] Respondent told him that he had been involved in a one-vehicle accident on October 21, 2000 that caused damage to the front and back of the vehicle. When [REDACTED] asked Respondent if he wished to file a claim on the accident, Respondent told him not to bother because he (Respondent) would handle the matter himself. At

that time, [REDACTED] took photos of the damage to the vehicle that Respondent stated occurred in the accident.

4. Respondent re-contacted [REDACTED] in July of 2001 and presented a bill to the agent in the amount of \$2,247.10 for repairs performed on the vehicle for damages caused by the alleged collision he had previously reported. Respondent told [REDACTED] that he wanted to file a claim for the repairs to his insurance company, State Farm Mutual Automobile Insurance Company.

5. [REDACTED] a claims specialist for State Farm Mutual Automobile Insurance Company, subsequently conducted an investigation into Respondent's claim. During the course of his investigation, [REDACTED] showed the photos taken by [REDACTED] of the vehicle's damage to the vehicle's previous owners and an employee of the dealership that sold the vehicle to Respondent. The previous owners and the dealership employee told [REDACTED] that the vehicle damage reported by Respondent, and showed in [REDACTED]'s photos, existed at the time Respondent purchased the vehicle, thereby evidencing the falsity of Respondent's claim to the insurance company.

CONCLUSIONS

Therefore, if such conduct is true, all such instances of forgery as hereinabove described constitute a violation of § 45-6-325, MCA. Furthermore, if such conduct is true, each such act is a violation of § 33-17-1001 of the Montana Insurance Code and is punishable by a fine not to exceed \$5,000.00 per violation pursuant to § 33-1-317, MCA.

II.

Thomas S. Vandersloot stipulates and consents to the following:

- A. To pay a \$500.00 fine;
- B. To comply with all provisions of the Montana Insurance Code;

C. To waive the right to a hearing on the above-mentioned allegations and, that by entering into this Consent Agreement, neither admits nor denies the substance of the allegations of the Commissioner;

D. To waive his right to any and all statutes of limitation;

E. That Respondent states that he has read the foregoing Consent Agreement, that he knows and fully understands its contents and effect. Respondent acknowledges that he has been advised of: his right to be represented by legal counsel and if represented by legal counsel, that his legal representation was satisfactory; that it is fully aware of his right to a hearing in this matter, his right to present evidence and arguments to the Commissioner and his right to appeal from an adverse determination after hearing. Respondent further acknowledges that in signing this Consent Agreement, he is not under the influence of any substance that might impair his judgment. Respondent understands that, by signing this Consent Agreement, he waives those rights mentioned above in their entirety;

F. Thomas S. Vandersloot further understands and agrees that compliance with this Consent Agreement and Final Order shall be a final compromise and settlement of the Department's allegations contained herein. Vandersloot further understands that, upon the signing of the Final Order by the Commissioner or his representative, this Consent Agreement and Final Order will be an order of the Commissioner and failure to comply with the same may constitute separate violations of the Montana Insurance Code, pursuant to Mont. Code Ann. § 33-17-1001 and/or other applicable statutes or rules, and may result in subsequent legal action by the Department.

G. Respondent states that he understands ~~that~~ this Consent Agreement is part of the Commissioner's file, which is a public record. As a public record it may not be sealed. Also, he understands that the Commissioner develops press releases based on Consent Agreements on a

routine basis and sends them to the news organizations in the state of Montana; and

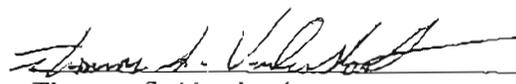
H. It is further understood that this Consent Agreement constitutes the entire agreement between the parties, there being no other promises or agreements, either express or implied.

III.

Pursuant to the stipulation and consent of Thomas S. Vandersloot, the Commissioner, under authority of the Insurance Code of Montana and § 2-4-603, MCA hereby agrees that if the terms and conditions of this Consent Agreement are fully met, he will not initiate any civil, administrative or criminal action against Thomas S. Vandersloot regarding the allegations contained herein. In consideration for the Commissioner not initiating any civil or administrative action, Thomas S. Vandersloot fully and forever releases and discharges the Office of the State Auditor, the elected State Auditor and all State Auditor employees from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the above entitled administrative action.

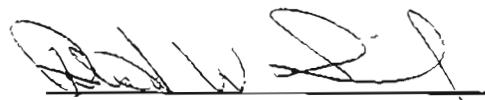
DATED this 16 day of MAY, 2003, 2002.

RESPONDENT


Thomas S. Vandersloot

Subscribed and sworn to before me this 16th day of May, 2003, 2002.

(SEAL)


Notary Public for the
State of Montana
Residing at Roundup, MT
My commission expires 2/9/04

JOHN MORRISON
State Auditor and
Commissioner of Insurance

By: 

John K. Kurtz
Legal Counsel

BEFORE THE STATE AUDITOR
AND COMMISSIONER OF INSURANCE
HELENA, MONTANA

1
2 IN THE MATTER OF:) CASE NO. 2002-16
3)
4 THE PROPOSED DISCIPLINARY) NOTICE OF PROPOSED AGENCY
5 TREATMENT OF THOMAS S.) ACTION AND OPPORTUNITY FOR
6 VANDERSLOOT,) HEARING (ADMINISTRATIVE FINE)
7 Respondent.)

8 =====
9 TO: Thomas S. Vandersloot, 2626 Pronghorn Drive, Laurel, MT
10 59044:

11 PLEASE TAKE NOTICE

12 Staff of the Insurance Division of the office of the State
13 Auditor and Commissioner of Insurance of the state of Montana
14 (Commissioner), pursuant to the authority of the Insurance Code of
15 Montana, § 33-1-101, MCA, et seq., is proposing to the Commissioner
16 that he take disciplinary action against Kenneth S. Vandersloot for
17 violations of the Montana Code. The Commissioner has authority to
18 take such action under the provisions of § 33-1-317, MCA.

19 Service of process is pursuant to § 33-1-314, MCA.

20 REASONS FOR ACTION

21 There is probable cause to believe that the following facts,
22 if true, justify and support such disciplinary treatment.

23 ALLEGATIONS

24 1. At all times relevant hereto, Thomas S. Vandersloot was
25 the owner of a 1994 GMC Suburban Sport Wagon, VIN:
[REDACTED] Vandersloot purchased the vehicle on October

11, 2000.

1 2. Vandersloot obtained insurance coverage on the vehicle on
2 October 20, 2000. Vandersloot failed to make the vehicle available
3 for inspection as requested by his insurance agent, [REDACTED]
4 at the time he obtained coverage on the vehicle. In obtaining
5 coverage for the vehicle, Vandersloot did not advise [REDACTED] that
6 he had previously been involved in an accident while driving the
7 vehicle.

8 3. On October 23, 2000, Vandersloot contacted [REDACTED] and
9 reported he had been involved in an accident with the vehicle.
10 According to [REDACTED], Vandersloot told him that he had been
11 involved in a one-vehicle accident on October 21, 2000 that caused
12 damage to the front and back of the vehicle. When [REDACTED] asked
13 Vandersloot if he wished to file a claim on the accident,
14 Vandersloot told him not to bother because he (Vandersloot) would
15 handle the matter himself. At that time, [REDACTED] took photos of
16 the damage to the vehicle that Vandersloot stated occurred in the
17 accident.

18 4. Vandersloot re-contacted [REDACTED] in July of 2001 and
19 presented a bill to the agent in the amount of \$2,247.10 for
20 repairs performed on the vehicle for damages caused by the alleged
21 collision he had previously reported. Vandersloot told [REDACTED]
22 that he wanted to file a claim for the repairs to his insurance
23 company, State Farm Mutual Automobile Insurance Company.
24
25

5. [REDACTED] a claims specialist for State Farm Mutual
1 Automobile Insurance Company, subsequently conducted an
2 investigation into Vandersloot's claim. During the course of his
3 investigation, [REDACTED] showed the photos taken by [REDACTED] of the
4 vehicle's damage to the vehicle's previous owners and an employee
5 of the dealership that sold the vehicle to Vandersloot. The
6 previous owners and the dealership employee told Linse that the
7 vehicle damage reported by Vandersloot, and showed in Nearpass'
8 photos, existed at the time Vandersloot purchased the vehicle,
9 thereby evidencing the falsity of Vandersloot's claim to the
10 insurance company.
11

12 CONCLUSIONS

13 Therefore, if such conduct is true, Thomas S. Vandersloot
14 willfully violated §§ 33-1-1201 and 33-1-1202(1), MCA by, for the
15 purpose of obtaining any money or benefit, presenting or causing to
16 be presented to his insurer written and oral statements containing
17 false and/or misleading information concerning facts or things
18 material to, as part of, or in support of a claim for payment or
19 other benefit pursuant to an insurance policy. Furthermore, if
20 such conduct is true, it is punishable by a fine not to exceed
21 \$25,000.00 per violation pursuant to § 33-1-317, MCA.

22 POSSIBILITY OF DEFAULT AND STATEMENT OF RIGHTS

23 You have a right to resist this action. To resist this
24 action, you must respond to this NOTICE OF PROPOSED AGENCY ACTION
25 AND OPPORTUNITY FOR HEARING as provided herein within fifteen (15)

1 days of its date of mailing. Failure to respond as provided herein
2 may result in the entry of a Default Order that could impose a fine
3 against you, without any more notice to you, pursuant to 6.2.101,
4 Administrative Rules of Montana and the Attorney General's Model
5 Rule 10, 1.3.214.

6 If you resist this action, you are entitled to a formal or
7 informal hearing before a hearing examiner appointed by the
8 Commissioner pursuant to § 33-1-701, MCA, et seq., and the Montana
9 Administrative Procedure Act, including § 2-4-601, MCA et seq. If
10 you desire a hearing, your response to this NOTICE OF PROPOSED
11 AGENCY ACTION AND OPPORTUNITY FOR HEARING must include a written
12 demand for a hearing pursuant to § 33-1-701(2), MCA (1999) within
13 the time period provided above.

14 Such written demand must also specify whether you request a
15 formal or informal hearing, and the grounds relied upon as a basis
16 for the relief sought at such hearing pursuant to § 33-1-701(2),
17 MCA. If you demand a hearing, you will be given notice of the
18 time, place and the nature of the hearing. The hearing shall be
19 held within 30 days after receipt of the demand by the
20 commissioner, unless postponed by mutual consent.

21 If you demand a hearing, you are entitled to present evidence
22 and arguments on all issues involved in this case. You shall be
23 provided the opportunity to cross-examine any witness, and rules of
24 evidence shall apply at any such hearing as provided in § 2-4-612,
25 MCA.

You have a right to be represented by an attorney at any and

1 all stages of this proceeding pursuant to § 33-1-704, MCA. If the
2 counsel you choose has not been admitted to practice law in the
3 State of Montana, he or she must comply with the requirements of
4 Application of American Smelting and Refining Co., (1973), 164
5 Mont. 139, 520 P.2d 103.

6 If you waive your right to a formal hearing and agree to
7 proceed informally, you and/or your attorney are entitled to
8 present to the agency or a hearing officer written or oral evidence
9 opposing the proposed disciplinary action, a written statement
10 challenging the grounds upon which the proposed disciplinary action
11 is based, or other written or oral evidence relating to this matter
12 pursuant to § 2-4-604, MCA. If this Agency overrules any such
13 evidence presented by you, the agency shall provide a written
14 explanation within seven (7) days.

15 If you wish to resist the disciplinary action proposed herein,
16 you must so advise the State Auditor within the required timeframe
17 by writing to John K. Kurtz, Insurance Attorney, State Auditor's
18 Office, 840 Helena Avenue, Helena, Montana 59601.

19 CONTACT WITH INSURANCE COMMISSIONER'S OFFICE

20 If you have questions or wish to discuss this matter, please
21 contact John K. Kurtz, legal counsel for the State Auditor, at 840
22 Helena Avenue, Helena, MT, 59601, (406)444-1936 or, within Montana,
23 (800)332-6148. If you are represented by an attorney, please make
24 any contacts with this office through your attorney.

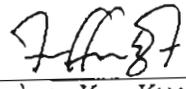
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DATED this 23rd day of April, 2002.

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JOHN MORRISON
State Auditor and
Commissioner of Insurance

By: 
John K. Kurtz
Insurance Attorney