

BEFORE THE STATE AUDITOR
AND COMMISSIONER OF INSURANCE
HELENA, MONTANA

IN THE MATTER OF:) CASE NO. 2003-~~215~~
THE PROPOSED DISCIPLINARY) REQUEST FOR ENTRY OF DEFAULT,
TREATMENT OF ROCKY MOUNTAIN) APPLICATION FOR DEFAULT
LAND TITLE COMPANY,) JUDGMENT and ENTRY OF DEFAULT
Respondent.)

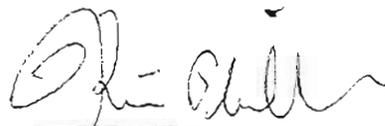
Respondent has been duly served with a Notice of Proposed Agency Action and Opportunity for Hearing and an Amended Notice of Proposed Agency Action and Opportunity for Hearing (License Discipline and Administrative Fine) and has not made an appearance by answer or otherwise within the time allowed by law.

Kevin Phillips, Staff Attorney for the Office of the State Auditor (Auditor), requests that Respondent's default be entered by the State Auditor for failure to respond within 20 days pursuant to Rule 12(a), M.R. Civ. Proc. and that a default judgment be issued. On February 25, 2003, a Notice of Proposed Agency Action was sent by mail to Respondent by certified U.S. Mail pursuant to §§ 33-1-314 and 33-17-214, Mont. Code Ann. On May 2, 2003, an Amended Notice of Proposed Agency Action and Opportunity for Hearing (License Discipline and Administrative Fine) was sent by mail to Respondent by certified U.S. Mail pursuant to §§ 33-1-314 and 33-17-214, Mont. Code Ann. The domestic return receipt for the first Notice was returned to this office with a date of February 26, 2003, and is attached as Exhibit A. The domestic return receipt for the Amended Notice was

returned to this office with a date of May 5, 2003.

The Notice of Proposed Agency Action and Amended Notice of Proposed Agency Action advised Respondent that it had 20 days from which to request a hearing, and that if it failed to request a hearing, default could be taken. Respondent did not request a hearing.

Dated this 6th day of June, 2003.



Kevin F. Phillips
Staff Attorney

ENTRY OF DEFAULT

The default of the Respondent is hereby entered this 6th day of June, 2003 for its failure to appear or answer the Notice or Amended Notice of Proposed Agency Action within the time allowed by law or at all. For violations of the Montana Insurance Code, Rocky Mountain is ordered to pay a fine of \$10,000.

JOHN MORRISON
State Auditor and Commissioner of
Insurance

By: Angela Huselka
Deputy Insurance Commissioner

CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of the foregoing Request for Entry of Default, Application for Default Judgment and Entry of Default along with a copy of the Findings of Fact, Conclusions of Law and Final Order to the following persons by depositing the same in the U.S. Mail, certified, return receipt requested, on this 12 day of June, 2003.

Joseph Sabol II
225 E. Mendenhall
Bozeman, MT. 59715

A handwritten signature in cursive script, reading "Paula Sautter". The signature is written in dark ink and is positioned above the typed name and title.

State Auditor's Office

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BEFORE THE STATE AUDITOR
AND COMMISSIONER OF INSURANCE
HELENA, MONTANA

IN THE MATTER OF:)	CASE NO. 2003-15
)	
THE PROPOSED DISCIPLINARY)	NOTICE OF PROPOSED AGENCY
TREATMENT OF ROCKY MOUNTAIN)	ACTION AND OPPORTUNITY FOR
LAND TITLE COMPANY,)	HEARING (LICENSE DISCIPLINE
)	AND ADMINISTRATIVE FINE)
Respondent.)	
)	
)	
)	

10 TO: Rocky Mountain Land Title Company
11 225 East Mendenhall
12 Bozeman, MT 59715

13 PLEASE TAKE NOTICE

14 Staff of the Insurance Division of the office of the State
15 Auditor and Commissioner of Insurance of the state of Montana
16 (Commissioner), pursuant to the authority of the Insurance Code
17 of Montana, Section 33-1-101, et seq., Montana Code Annotated
18 (2001) (MCA), is proposing to the Commissioner that he take
19 disciplinary action against the entities named above for
20 violations of the Montana Code. The Commissioner has authority
21 to take such action under the provisions of Sections 33-1-317,
22 33-2-119, 33-17-411, 33-17-1001, and 33-17-1002, MCA.

24 Service of process is pursuant to section 33-1-314, MCA.
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REASONS FOR ACTION

There is reason to believe that the following facts, if true, justify and support such disciplinary treatment.

ALLEGATIONS

1. On August 29, 2002, the Secretary of State issued a proposed order concluding that the registered name of Rocky Mountain Land Title Company (Rocky Mountain) be changed on the record. On September 3, 2002, the Secretary of State notified Rocky Mountain by Final Order of Dismissal that the name must be changed on the records of this office within 20 days pursuant to Section 35-2-310(5), MCA. Rocky Mountain took no action, so the Secretary of State involuntarily dissolved Rocky. As noted in the September 25, 2002 letter to Rocky by the Secretary of State, "the corporation has forfeited all its rights to carry on business within the state of Montana."

2. Based upon this information, the Commissioner of Insurance terminated Rocky Mountain's insurance producer license on September 26, 2002.

3. On October 22, 2002, Rocky Mountain sent a letter to the State Auditor's Office asking to be licensed as Bozeman Abstract

1 and Title Services, Inc. (Bozeman Abstract).

2 4. On October 23, 2002, the State Auditor issued Bozeman
3 Abstract a provisional license as an insurance producer.

4 5. From September 26 through October 22, 2002, Rocky
5 Mountain acted as an insurance producer involving numerous
6 insurance transactions. Rocky Mountain negotiated and sold
7 insurance policies including but not limited to the Bozeman and
8 Canyon Ferry areas.
9

10 CONCLUSIONS

11 1. The State Auditor is the Commissioner of Insurance
12 pursuant to section 2-15-1903, Mont. Code Ann.

13 2. The insurance department is under the control and
14 supervision of the Commissioner pursuant to section 33-1-301,
15 Mont. Code Ann.
16

17 3. A person may not transact a business of insurance in
18 Montana or a business relative to a subject resident, located, or
19 to be performed in Montana without complying with the applicable
20 provisions of this code pursuant to section 33-1-102, Mont. Code
21 Ann.
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23 4. The Commissioner shall administer the Department of
24 Insurance to protect insurance consumers pursuant to section 33-
25

1 1-311, Mont. Code Ann.

2 5. In acting as an insurance producer without a license,
3 Rocky Mountain violated section 33-17-201, MCA.
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7 STATEMENT OF RIGHTS

8 You are entitled to a hearing and to respond to this notice
9 and present evidence and arguments on all issues involved in this
10 case. You may have a formal hearing before a hearing examiner
11 appointed by the Commissioner. This is provided for by the
12 Montana Administrative Procedure Act, sections 2-4-601, MCA, and
13 following, including Section 2-4-631, MCA. If you demand a
14 hearing, you will be given notice of the time, place and the
15 nature of the hearing. Pursuant to section 33-1-701, the hearing
16 shall be held within 45 days after receipt of the demand by the
17 commissioner, unless postponed by mutual consent.
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20 You have a right to be represented by an attorney at any and
21 all stages of this proceeding.
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23 If you want to resist the proposed action under the
24 jurisdiction of the Commissioner, you must so advise him within
25 twenty days of the date you receive this notice. You may so

1 advise him by writing to Kevin Phillips, Insurance Attorney,
2 State Auditor's Office, 840 Helena Ave, Helena, Montana 59601.

3 While so advising Mr. Phillips, you should make clear whether you
4 demand a hearing, or whether you waive formal proceedings and, if
5 so, what informal proceedings you prefer for handling this case.

6 Pursuant to section 2-4-603(2), Mont. Code Ann., you may not
7 request to proceed informally if the action could result in
8 suspension, revocation or any other adverse action against a
9 professional license.
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12 Should you request a hearing, you have the right to be
13 accompanied, represented, and advised by counsel. If the counsel
14 you choose has not been admitted to practice law in the state of
15 Montana, he or she must comply with the requirements of
16 Application of American Smelting and Refining Co., (1973), 164
17 Mont. 139, 520 P.2d 103.
18

19 CONTACT WITH INSURANCE COMMISSIONER'S OFFICE

20 If you have questions or wish to discuss this matter, please
21 contact Kevin Phillips, legal counsel for the State Auditor, 840
22 Helena Ave, Helena, MT, 59601, (406)444-3496 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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