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MONTANA STATE AUDITOR'S OFFICE
INSURANCE DEPARTMENT
HELENA, MONTANA

IN THE MATTER OF:

THE PROPOSED DISCIPLINARY
TREATMENT OF K. JEFFREY KNAPP,

Respondent.

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CASE NO. INS-2005-17

CONSENT AGREEMENT

I.

The Montana Insurance Commissioner (Commissioner), pursuant to the authority of the 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 disciplinary treatment.

ALLEGATIONS

1. Respondent is a resident of the state of Montana. Respondent surrendered his Montana Insurance Producer's license in 2004.

2. Respondent was involved in a one-vehicle crash on or about July 11, 2004 that occurred on Interstate 15 near the Cedar Street exit in Helena, Lewis & Clark County, Montana. Highway Patrol Officer Marvin D. Reddick responded to the crash scene, where he noticed Respondent's 2001 Chevrolet pickup truck had struck the guardrail on the right-hand side of the highway and traveled down a steep embankment after it had been overcorrected. Officer Reddick's report identifies Respondent as the truck's occupant and states Respondent was intoxicated at the crash scene.

3. Officer Reddick interviewed Respondent's mother, Roberta Knapp, at the crash scene. Ms. Knapp told the officer that she had been driving Respondent's truck at the time of the crash because Respondent had asked her to drive him since he had been consuming alcohol earlier in the evening and did not feel safe to drive. She stated he had been driving Respondent in his truck and was driving behind another vehicle on I-15 at the time of the crash when she noticed a deer begin to cross in front of the other vehicle. She stated the other vehicle swerved to avoid the deer, that she also swerved and then overcorrected the truck, collided into the back of the other vehicle and then swerved into the guardrail. The vehicle continued over the guardrail and came to a rest against a chain link fence below. According to the Respondent and Ms. Knapp, Respondent was thrown from the truck and landed on the dirt and grass field outside of the truck, which caused the Respondent to suffer serious injuries. Ms. Knapp told Officer Reddick that she was not wearing her seatbelt at the time of the crash.

4. Following the crash, Respondent was transported to St. Peter's Hospital in Helena, MT for care relating to the numerous injuries he suffered in the crash. According to an informant, Respondent phoned her using his cell phone shortly following the crash and before law enforcement or emergency medical personnel arrived at the crash scene. The informant stated Respondent asked her to tell law enforcement personnel that she had been driving his truck at the time of the crash. The informant stated she refused to make such a statement. She further stated that she contacted Ms. Knapp, advised her that Respondent had been in a crash and that Ms. Knapp arrived at her residence shortly thereafter and drove them both to the accident scene. Ms. Knapp later indicated the crash occurred in Lewis & Clark County.

5. Respondent subsequently submitted a claim to Unitrin Specialty Insurance Company (hereinafter referred to as "Unitrin") for payment of his medical and vehicle damage expenses incurred as a result of the crash. Unitrin initiated an investigation into the cause of the crash.

6. According to Unitrin Investigator Ian Croxall, Respondent claimed he had been a passenger in his truck and that his mother had been driving the vehicle at the time of the crash. Ms. Knapp also told Unitrin she had been driving Respondent's vehicle when it crashed. However, according to Mr. Croxall, physical evidence collected during his investigation of the crash indicates Respondent, not his mother, had actually been driving the vehicle at the time of the crash.

7. On or about August 24, 2004, Mr. Croxall interviewed Ms. Knapp, who told him Respondent had called her late in the evening of July 10, 2004 and asked her to drive him because he felt he had been drinking beer and did not feel safe to drive. Ms. Knapp told Mr. Coxall that she went to the East Helena Street Dance, picked up Respondent, and proceeded to drive on Interstate 15 at approximately 1:00 A.M. to Perkins restaurant to drop him off to meet with some friends. She stated that, while driving to Perkins restaurant, a smaller vehicle passed her on her left, drove back in front of her, began to swerve and began to brake sharply. She stated she then ran into the rear of the smaller vehicle, which caused her to lose control of the truck and drive over the guardrail, landing on embankment where Respondent's pickup stopped with its hood resting against a chain link fence. Ms. Knapp also stated that Respondent was ejected from the truck during the crash, that she heard Respondent call for her after the truck stopped, that she located him outside the truck and assisted him back into the vehicle.

8. Mr. Croxall also interviewed Respondent about the crash. Respondent advised Mr.

Croxall that he drank two beers that evening and later asked his mother to drive him home because he felt it was not safe for him to drive. Respondent stated he was riding in the truck's passenger seat at the time of the crash when another car passed the truck on the left, cut into the right-hand lane and hit a deer. Respondent stated he thinks the truck ran into the back of the front vehicle. He also stated he saw the front vehicle hit a deer, which flew over the top of the front vehicle and that he thought the deer was going to strike his truck's windshield, even though it did not. Respondent stated he remembers waking up outside his truck and hearing his mother calling his name.

9. Respondent was transported to St. Peter's Hospital following the crash, where he received medical care for his injuries. His injuries included a fractured left femur and five broken ribs on his left side. In filing his claim with Unitrin, Respondent executed a Release of his medical records. Unitrin subsequently reviewed his medical records, which indicated his blood-alcohol concentration was at least .237 at the time of the crash.

10. Unitrin's hired an accident reconstructionist named Robert E. Stearns as a part of its investigation. Mr. Stearns conducted an investigation and issued a report on or about January 17, 2005 regarding the facts surrounding the crash. Mr. Stearns concluded that Respondent's injuries could only have occurred if he had been driving the truck at the time of the crash. Mr. Stearns also concluded Respondent could not have been ejected through the passenger door or window. He concluded that, if Respondent was ejected from his truck, it only could have occurred through the driver's side of the truck.

11. Mr. Stearns' report further notes that Ms. Knapp previously told investigators he walked around the front of the pickup following the collision. His report concludes this also is

impossible since the front of the truck came to rest against a chain link fence after the crash. His report further concludes the damage to Respondent's truck indicates the crash could not have occurred as reported by Respondent and his mother, and that no paint transfer evidence exists to support contention that Respondent's truck struck the vehicle driving in front of it. The report states Respondent's medical reports further indicate he was never ejected during the crash due to a complete lack of ground contamination on Respondent's clothing and a lack of lacerations and/or abrasions typically seen following forceful ejections from vehicles.

12. Montana Highway Patrol Officer Cal Janes also performed an accident reconstruction investigation into the crash. Officer Janes' report also concludes that Respondent must have been driving his truck at the time of the crash.

13. Unitrin estimates the damage to Respondent's vehicle to be approximately \$6,632.52.

14. This Agreement is to resolve a contested matter between the parties, to resolve issues without hearing or trial. In entering into this agreement, Respondent does not admit to any liability or violation of law, based upon the facts contained in this Agreement.

CONCLUSIONS

Therefore, if such conduct is true, Respondent violated INSURANCE FRAUD/THEFT, a FELONY, in violation of Sections 33-1-1202(1) and 45-6-301(6)(a), MCA; PROVIDING FALSE REPORTS TO LAW ENFORCEMENT AUTHORITIES, a MISDEMEANOR, in violation of Section 45-7-205(1)(a), MCA; OPERATION OF NONCOMMERCIAL VEHICLE BY PERSON WITH ALCOHOL CONCENTRATION OF 0.08 OR MORE, a MISDEMEANOR, in violation of Section 61-8-406(1)(a), MCA; and, FAILURE TO PROVIDE IMMEDIATE NOTICE OF

ACCIDENT, a MISDEMEANOR, in violation of Section 61-7-108, MCA.

Furthermore, if such conduct is true, is punishable by a fine not to exceed \$5,000.00 pursuant to § 33-1-317, MCA.

AGREEMENT

Respondent stipulates and consents to the following:

- A. To comply with all provisions of the Montana Insurance Code;
- B. To waive his right to a hearing on the above-mentioned allegations and, that by entering into this Consent Agreement, denies the substance of the allegations of the Commissioner which raise questions of whether his conduct constituted a violation of law. In entering this Agreement, Respondent does not admit to any liability or violation of law based upon the facts contained in this Agreement;
- C. To agree to not requesting the return of his surrendered Montana Insurance Producer's license, and to refrain from applying for a Montana Insurance Producer's or Securities license for a period of 20 (twenty) years from the date of signing this agreement, and that Respondent shall never enter any office or building operated by Knapp Insurance Agency for any reason;
- D. Respondent shall pay a fine of \$25,000.00 (twenty-five thousand dollars and zero cents) with all but \$3,000.00 (three-thousand dollars and zero cents) suspended, within six months of the date of signing this Agreement;
- E. To waive his right to any and all statutes of limitation, including, but not limited to his right to speedy trial in Cause No. CDC 2006-44 of the Montana First Judicial Court of Lewis & Clark County;
- F. The Department, acting through the Lewis & Clark County Attorney's office, shall

move the District Court to dismiss Cause No. CDC 2006-44 without prejudice immediately upon the signing of this Agreement. In the event Respondent violates any part of this Consent Agreement or Title 33 of the Montana Code Annotated, he shall pay the suspended portion of the fine listed above and the Department shall be free to pursue and/or refile the Respondent's pending criminal action, Cause No. CDC 2006-44 of the Montana First Judicial Court of Lewis & Clark County, provided, however, that the Department shall move the District Court to dismiss Cause No. CDC 2006-45 with prejudice three years from the date of signing this Agreement in the event Respondent has successfully performed all acts pursuant to the terms of this Agreement;

G. Respondent admits that he has read the foregoing Consent Agreement; that he knows and fully understands its contents and effect; that he 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 he is fully aware of his right to a hearing in this matter, his right to present evidence and arguments to the Commissioner or the District Court and his right to appeal any adverse determination after hearing; that he further acknowledges that, in signing this Consent Agreement, he is not under the influence of alcohol or drugs (prescription or otherwise), that he does not suffer from any emotional disturbance or mental disease or defect that would render him not competent to sign this Consent Agreement; that no threats, promises, coercion, force or duress have been used or brought against him in order to compel him to sign this Consent Agreement. **The Respondent understands that, by signing this Consent Agreement, he waives those rights mentioned above in their entirety.**

H. The Respondent further understands and agrees that, in signing this Consent Agreement, the Department retains its right to pursue any legal remedy in this matter, civil or criminal in the event he violates any of the conditions contained herein. Pursuant to the stipulation

and consent of Respondent, the Commissioner, under authority of the Insurance Code of Montana and Section 2-4-603, MCA, hereby agrees that if the terms and conditions of this Consent Agreement are fully met, he will not initiate any further civil, administrative or criminal action against Respondent regarding the allegations contained herein. In consideration for the Commissioner fully complying with the terms of this Consent Agreement, Respondent 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.

I. The 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;

J. This agreement is to resolve a contested matter between the parties and to resolve issues without hearing or trial; and

K. 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, unless contained herein.

DATED this 26th day of June, 2006.

RESPONDENT


K. Jeffrey Krapp

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Notary Public for the State of Montana
Written name Donald F. WATOLMAN
Residing at HELENA, MONTANA
My commission expires AUGUST 28, 2008

JOHN MORRISON
State Auditor and
Commissioner of Insurance

By: 

John K. Kurtz
Legal Counsel