

1 Michael Winsor
Special Assistant Attorney General
2 Montana State Auditor
840 Helena Avenue
3 Helena, MT 59601
(406) 449-8617
4 Attorney for the Department of Insurance
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7
8 **BEFORE THE STATE AUDITOR AND COMMISSIONER OF INSURANCE**
9 **HELENA, MONTANA**

10 _____)
11 IN THE MATTER OF THE PROPOSED)
12 AGENCY ACTION REGARDING THE)
13 INSURANCE PRODUCERS LICENSE OF)
14 PHILIP E. SHIPLEY, License #PRO007959)

INS-2007-1

**CONSENT AGREEMENT
AND FINAL ORDER**

15 _____
16 The State Auditor and Commissioner of Insurance of the state of Montana
17 (Commissioner), pursuant to the authority of the Montana Insurance Code, Mont. Code
18 Ann.(MCA) § 33-1-101, *et seq.*, and § 2-4-603, MCA, and the Respondent hereby mutually agree
19 as follows:

20 **RECITALS**

21 WHEREAS, the Department of Insurance (the Department) has made various allegations
22 in the Fact Assertions and Conclusions of Law which are contained in the Notice of Proposed
23 Agency Action and Opportunity for Hearing which justify disciplinary treatment;

24 WHEREAS, said Fact Assertions and Conclusions of Law are incorporated herein by
25 reference;

26 WHEREAS, the Respondent has admitted to the said allegations;

27 WHEREAS, the Department and Respondent agree that the parties' best interests would
28 best be served by entering into the following specific agreement;

1 NOW THEREFORE, in consideration of the mutual undertaking established herein and
2 the parties, desiring to fully and finally resolve all said matters contained in the Notice of
3 Proposed Agency Action and Opportunity for Hearing, have entered into this Consent
4 Agreement.

5 **AGREEMENT**

6 The Department and Respondent Phillip Shipley hereby stipulate and agree to the
7 following:

8 1. The Commissioner and Department have jurisdiction over the subject matter of the
9 above-entitled proceeding.

10 2. Respondent acknowledges he was advised of the right to be represented by legal
11 counsel and has waived that right.

12 3. Respondent acknowledges he has read and understands each term of this Consent
13 Agreement and Final Order. Respondent acknowledges he enters into this Consent Agreement
14 voluntarily, and without reservation. Respondent acknowledges he is not under the influence of
15 alcohol or drugs (prescription or otherwise) and he does not suffer from any emotional
16 disturbance or mental disease or defect that would render him not competent to sign this Consent
17 Agreement. Respondent further acknowledges this Consent Agreement constitutes the entire
18 agreement between the parties and that no other promises or agreements, either express or
19 implied, have been made by the Department or by any member, officer, agent or representative of
20 the Department to induce Respondent to enter into this Consent Agreement.

21 4. The Department contends as set forth in the preceding Fact Assertions and
22 Conclusions of Law and Respondent admits the same. The Department and Respondent have
23 elected to resolve these matters as follows:

24 (a) For all violations of § 33-1-101, MCA, *et seq.*, Respondent will pay an
25 administrative fine of \$10,000.00, with all but \$5,000.00 suspended subject to full compliance
26 with this agreement, to the Department within two (2) years following the execution of the Final
27

1 Order in this matter. Respondent agrees to pay said fine in monthly installments of at least
2 \$208.33 per month beginning at the time of his execution of this agreement and continuing
3 thereafter until paid in full. Respondent understands that he may pay off the fine sooner by
4 paying more than the minimum monthly amount stated above. Respondent agrees to pay the
5 remaining suspended portion of the fine in the amount of \$5,000.00 if, within two years
6 following the signing of the Final Order, Respondent fails to comply with this agreement, the
7 Montana Insurance Code and/or the administrative rules promulgated thereunder.

8 (b) The Department and Respondent agree that this Consent Agreement and Final
9 Order resolves the violations set out herein;

10 (c) Respondent specifically and affirmatively waives a contested case hearing and
11 all rights to appeal under the Montana Administrative Procedure Act, and elects to resolve this
12 matter on the terms and conditions set forth herein;

13 (d) Respondent agrees that compliance with this Consent Agreement and Final
14 Order shall be a final compromise and settlement of the matters set forth herein;

15 (e) Respondent fully and forever releases and discharges the Commissioner,
16 Department, and all Department employees from any and all actions, claims, causes of action,
17 demands, or expenses for damages or injuries, whether asserted or unasserted, known or
18 unknown, foreseen or unforeseen, arising out of the factual allegations or conclusions in this
19 Consent Agreement; and

20 (f) The Department and Respondent agree that this Consent Agreement shall be
21 incorporated and made a part of the attached Final Order issued by the Commissioner herein.

22 5. Respondent further understands that, upon the signing of the Final Order by the
23 Commissioner or his representative, this Consent Agreement and Final Order will be an order of
24 the Commissioner and failure to comply with the same may constitute separate violations of the
25 Montana Insurance Code, pursuant to Mont. Code Ann. § 33-2-119 and/or other applicable
26 statutes or rules, and may result in subsequent legal action by the Department.

1 6. Respondent understands that this Consent Agreement is not effective until such time
2 as the following Final Order is signed.

3 7. Respondent understands that this Consent Agreement and Final Order are public
4 records under Montana law and as such may not sealed or otherwise withheld from the public.

5
6 By: Phillip E. Shipley Date 9-5-07

7
8 Subscribed and Sworn to before me this 5th day of September, 2007.



10
11 Rose M Spaulding
(Signature)
12 ROSE M SPAULDING
(Printed name)
13 Notary Public for the State of Montana
14 Residing at Billings
My commission expires January 16, 2009

15
16 ACCEPTED ON BEHALF OF THE INSURANCE DEPARTMENT:

17 Michael Winsor
18 Michael Winsor
Special Assistant Attorney General

19 8/24/07
20 Date

1 **FINAL ORDER**

2 Pursuant to the authority vested by the Montana Insurance Code, Mont. Code Ann. § 2-4-
3 603, MCA and § 33-1-101, MCA, *et seq.*, and upon review of the forgoing Consent Agreement
4 and Final Order and good cause appearing therefor,

5 IT IS ORDERED that the foregoing Consent Agreement between the Insurance
6 Department and Phillip E. Shipley is hereby adopted as if set forth fully herein.

7 DATED this 7th day of September, 2007.

8
9 JOHN MORRISON
10 State Auditor and Commissioner of Insurance

11 
12 By: Janice S. VanRiper
13 Deputy Insurance Commissioner

14 **CERTIFICATE OF SERVICE**

15 I hereby certify that on the 10 day of SEPTEMBER, 2007, I served a
16 true and accurate copy of the foregoing Consent Agreement and Final Order upon the
17 Respondent and Department, by mail, postage prepaid, at the following address:

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19 Phillip E. Shipley
20 Shipley Agency
21 2020 Concord Drive
22 Billings, MT 59102

23 Michael Winsor
24 Special Assistant Attorney General
25 Insurance Department

26 
27 Darla Sautter