

Michael Winsor
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Montana State Auditor's Office
840 Helena Avenue
Helena, MT 59601
(406) 444-2040

Attorney for the Department of Insurance

**BEFORE THE STATE AUDITOR AND COMMISSIONER OF INSURANCE
STATE OF MONTANA**

IN THE MATTER OF:)	Case No. INS-2008-45
)	
JEFFREY and DEBRA BLODGETT,)	CONSENT AGREEMENT
)	AND FINAL ORDER
Respondents.)	

The State Auditor and the Montana Department of Insurance (Department), pursuant to the authority of the Montana Insurance Code, §§ 33-1-101 *et seq.* and Mont. Code Ann. § 2-4-603, Jeffrey and Debra Blodgett (Respondents), hereby mutually agree as follows:

FACT ASSERTIONS

1. Respondents were, at all pertinent times, members or managers of Kid County, LLC.
2. On August 18, 2006, Respondents applied for, and were accepted to receive, premium and incentive benefits under the Montana small business health insurance purchasing pool in August of 2006 through their business Kid County, LLC.
3. On November 15, 2006, Respondents applied for and were granted renewal of their benefits for the year 2007.

4. On October 29, 2007, Respondents applied for and were granted renewal of their benefits for the year 2008.

5. Effective December 31, 2007, Respondents cancelled their small group health insurance policy for which they were receiving premium and incentive payments.

6. Respondents did not notify Insure Montana they had cancelled their policy and continued to receive and accept premium incentive and assistance payments for January and February 2008, to which they were not entitled.

7. On February 5, 2008, Insure Montana Purchasing Pool Program Specialist Helen Taffs issued a demand for reimbursement of the premium incentive and assistance payments, to which the Respondents were not entitled, in the total amount of Eight Hundred Ninety Eight Dollars and Ten Cents (\$898.10).

8. On April 17, 2008, Respondents filed a joint petition in the United States Bankruptcy Court for bankruptcy relief.

9. On June 19, 2008, the Department filed a Stipulation to Modify Stay in Bankruptcy Court which was approved by order of the Court on August 1, 2008.

10. The Respondent's bankruptcy case was closed on August 14, 2008 and then re-opened to administer a tax refund on August 19, 2008.

11. On or about October 29, 2008, the Department filed a Proof of Claim in the Bankruptcy case for the unreimbursed premium and incentive payments together with pre-petition interest.

CONCLUSIONS OF LAW

1. The State Auditor is the Commissioner of Insurance (Commissioner) pursuant to Mont. Code Ann. § 2-15-1903.
2. The Insurance Department (Department) is under the control and supervision of the Commissioner pursuant to Mont. Code Ann. §§ 2-15-1902 and 33-1-301.
3. The Commissioner shall administer the Department to protect insurance consumers. Mont. Code Ann. § 33-1-311.
4. The Commissioner and the Department have jurisdiction over this matter. Mont. Code Ann. § 33-1-311.
5. An eligible small employer means an employer who is sponsoring or will sponsor a group health plan and who employed at least two but not more than nine employees during the preceding calendar year and who employs at least two but not more than nine employees on the first day of the plan year. Mont. Code Ann. § 33-22-2002(3)(a).
6. An employer's decision to apply for premium incentive payments and premium assistance payments or a tax credit is irrevocable for 12 months or until the purchasing pool group health plan or qualified association health plan renew its registration, whichever time period is less. An employer may choose to discontinue receiving any premium incentive payments and premium assistance payments or tax credits at any time. Mont. Code Ann. § 33-22-2008(1)(f).
7. Respondents ceased to be eligible for premium and assistance payments when they cancelled their small group health insurance policy for which they were receiving premium and incentive payments. Mont. Code Ann. § 33-22-2006(1)(b).

8. Respondents violated Chapter 22, Part 20 of the Montana Insurance Code when they continued to receive and accept premium and incentive payments when they were no longer eligible.

9. The Commissioner may, after providing an opportunity for a hearing pursuant to Mont. Code Ann. § 33-1-701, impose the penalties provided for in Mont. Code Ann. § 33-1-317 for a violation of this part. Failure to pay a fine under this section results in a lien upon the assets and property of that person in this state and may be recovered by suit by the commissioner and deposited in the special revenue account described in Mont. Code Ann. § 53-6-1201. Mont. Code Ann. § 33-22-2009(1).

10. In addition to any penalty provided for in Mont. Code Ann. § 33-1-317, the Commissioner may require a person violating this part to make full restitution to the state, including interest of 10% a year from the date of loss, if a violation of this part caused a premium incentive payment or premium assistance payment to be paid or a tax credit to be issued to a person who was not entitled to it. Mont. Code Ann. § 33-22-2009(1).

AGREEMENT

The Department together with Jeffrey and Debra Blodgett, Respondents, hereby stipulate and agree to the following:

1. Respondents acknowledge the Commissioner and Department have jurisdiction over the subject matter of the above-entitled proceeding.

2. Respondents acknowledge they were advised of the right to be represented by legal counsel, and although they understand their right to be represented by counsel, have knowingly and voluntarily waived their right to counsel by choosing to represent themselves in this matter.

3. Respondents acknowledge they have read and understand each term of this Consent Agreement and that they enter into this Consent Agreement voluntarily and without reservation.

4. Respondents and the Department stipulate and agree that this Consent Agreement resolves the alleged violations set forth in the Notice of Proposed Agency Action.

5. Respondents and the Department hereby acknowledge and agree that this Consent Agreement constitutes the entire agreement between the parties and that no other promises or agreements, either express or implied, have been made by the Department or by any member, officer, agent or representative of the Department to induce Respondents to enter into this Consent Agreement.

6. Any notice provided for in this Consent Agreement and any other communication between the Department and Respondents are legally sufficient if given in the following manner:

(a) notice to the Department may be given by mailing the notice by registered or certified mail, postage paid and addressed to the Department as follows:

Michael Winsor
Montana State Auditor's Office
840 Helena Avenue
Helena, MT 59601

(b) notice to Respondents may be given by mailing the notice by registered or certified mail, postage paid and addressed as follows:

Jeffrey and Debra Blodgett
444 Juli Court Southeast
Olympia, WA 98501

(c) Either party shall give to the other party notice of change of address for the giving of notices in the manner provided in this Consent Agreement, if applicable.

7. With respect to the Notice of Agency Action, Respondents specifically and affirmatively waive a contested case hearing and elect to resolve this matter on the terms and conditions set forth herein.

8. Respondents fully and forever release and discharge the Commissioner, Department, and all Department employees and agents 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 this administrative action and the Factual Allegations and Conclusions of Law incorporated by reference in this Consent Agreement.

9. The parties acknowledge and agree that this Consent Agreement may not be modified orally, and any subsequent modifications to this Consent Agreement must be mutually agreed upon in writing to be effective.

10. The Department and Respondents agree that this Consent Agreement shall be incorporated into and made a part of the attached Final Order issued by the Commissioner herein.

11. Respondents further understand that, upon the signing of the Final Order by the Commissioner or her representative, this Consent Agreement and Final Order will be an order of the Commissioner and failure to comply with it may constitute a separate violation of the Montana Insurance Code, and as provided in Mont. Code Ann. § 33-1-318, may result in subsequent legal action by the Department.

12. Alleged violations of this Consent Agreement shall be noticed in accordance with Paragraph 6 of this Consent Agreement. Alleged violators will be provided an opportunity for a contested case hearing and rights to appeal under the Montana Administrative Procedures Act.

13. Upon execution of this Consent Agreement and full payment of restitution as set forth in Paragraph 16 below, the Department will not commence any further administrative, civil, or any other action based upon the allegations set forth in this action that occurred prior to the execution of this Consent Agreement.

14. This Consent Agreement shall be effective upon signing of the Final Order.

15. Respondents acknowledge that this Consent Agreement and Final Order are public records under Montana law and as such may not be sealed or otherwise withheld from the public.

16. The Department and the Respondents further agree as follows:

(a) the Respondents shall pay to the Montana State Auditor's Office full restitution in the agreed amount of Eight Hundred Ninety Eight Dollars and Ten Cents (\$898.10) together with interest in the amount of 10% per year beginning from January 1, 2008, at a daily interest of rate of .000277778, until final payment is received to include post-bankruptcy petition interest.

(b) to the extent that the Respondents assert or have previously asserted or claimed that the agreed restitution amount was discharged in their bankruptcy, the Respondents hereby expressly reaffirm that obligation which they agree to pay to the Department according to the terms of this Consent Agreement.

(c) the Department has filed a Proof of Claim in the Respondent's bankruptcy case pursuant to 11 U.S.C. § 507(a)(8) and hereby agrees that should the bankruptcy trustee pay to the Department the amount listed in the Proof of Claim, to wit: Nine Hundred Twenty Four Dollars and Seventy Nine Cents (\$924.79), that this amount shall be offset against the agreed restitution amount together with interest as set forth in Paragraph 16(a) above. Further, Respondents acknowledge that the Proof of Claim only claims principal and pre-petition interest and the

Respondents agree to pay interest from January 1, 2008, until final payment is received by the Department.

(d) in the event that the bankruptcy trustee does not, for any reason, pay or satisfy the Department's proof of claim from the Respondents' bankruptcy estate, the Department will provide notice to the Respondents. In that event, the Respondents agree to pay the restitution amount set forth in Paragraph 16(a) above to the Department in full or in regular monthly installment payments in the amount of Seventy Five Dollars (\$75.00), which shall be due the 15th day of every month beginning after notice is sent by the Department until final payment of principal and interest is paid in full.

(e) Nothing in this subsection should be construed to limit or prevent Respondents from paying in full, in advance, or more than the agreed monthly installment amount.

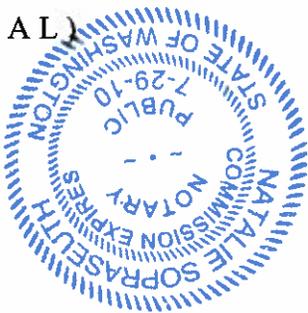
(f) Payments received apply first to interest and then to principal.


JEFFREY BLODGETT

2/2/09
DATE

SUBSCRIBED and SWORN to before me this 2nd day of February, 2009.

(SEAL)



Natalie Soprasentn
(Signature)

Natalie Soprasentn
(Printed name)

Notary Public for the State of Washington

Residing at Lacey

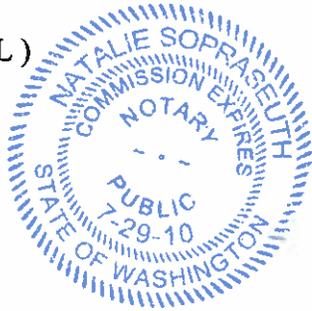
My commission expires 7-29-2010

Debra Blodgett
DEBRA BLODGETT

2/2/09
DATE

SUBSCRIBED and SWORN to before me this 2nd day of February, 2009.

(SEAL)



Natalie Sopraseuth
(Signature)

Natalie Sopraseuth
(Printed name)

Notary Public for the State of Washington

Residing at Lacey

My commission expires 7-29-10

ACCEPTED ON BEHALF OF THE INSURANCE DEPARTMENT:

Michael Winsor

Michael Winsor
Special Assistant Attorney General

1/9/09
Date

FINAL ORDER

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

IT IS ORDERED that the foregoing Consent Agreement between the Insurance Department and the Respondents, Jeffrey and Debra Blodgett, is hereby adopted as if set forth fully herein.

DATED this 6th day of FEBRUARY, 2009.

MONICA J. LINDEEN
State Auditor and Commissioner of Insurance

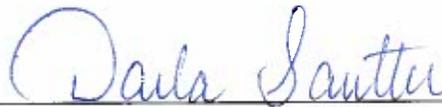
By: ROBERT W MOON
ROBERT W. MOON
Deputy Commissioner of Insurance

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this 6 day of FEBRUARY, 2009, a true and correct copy of the foregoing Consent Agreement and Final Order was served upon the following by hand delivery or by depositing the same in the United States mail postage paid and addressed as follows:

Jeffrey and Debra Blodgett
4444 Juli Court Southeast
Olympia, WA 98501

Mike Winsor, Insurance Department



Darla Sautter, Legal Administrative Secretary
Montana State Auditor's Office