

**Hearing Examiner**

JAN 06 2009

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3 State Auditor's Office  
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5 Helena, MT 59601  
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7 Attorney for the Department of Insurance

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

10 IN THE MATTER OF THE LICENSE DENIAL )  
11 OF DAVID ARTHUR DESCHAMPS, )

12 Respondent. )

Case No. INS-2009-2

**NOTICE OF HEARING ON  
DENIAL OF PRODUCER  
LICENSE**

13 TO: David Deschamps  
14 1914 Margaret Street  
15 Missoula, MT 59801

16 **PLEASE TAKE NOTICE:**

17 On Wednesday, February 4, 2009, at 9:00 a.m. at the Office of the State Auditor and  
18 Insurance Commissioner, 840 Helena Avenue, Helena, Montana, Second Floor Conference  
19 Room, a hearing will be held regarding the December 16, 2008 refusal to issue an insurance  
20 producer license to David Arthur Deschamps.

21 Staff of the Insurance Department (Department)of the office of the Montana State  
22 Auditor and Commissioner of Insurance (Commissioner), pursuant to the authority of the  
23 Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.*, is proposing that the  
24 Commissioner refuse to issue an insurance producer license to David Arthur Deschamps for  
25 violations of Title 33, Chapter 17, Montana Code Annotated.

26 The Commissioner has authority to take such action under the provisions of Mont.  
27 Code Ann. §§ 33-1-311, 33-1-314, 33-17-201, 33-17-211, and 33-17-1001.  
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1 The State Auditor's Office will make reasonable accommodations for persons with  
2 disabilities who wish to participate in this hearing or need an alternative accessible format of  
3 this Notice. If you require an accommodation please contact Darla Sautter, State Auditor's  
4 Office, 840 Helena Avenue, Helena MT 59601, Phone: (406) 444-2726, Fax: (406) 444-3497,  
5 no later than 5:00 p.m. fourteen (14) days before the hearing to advise of the nature of the  
6 accommodation that you need.

7 **REASONS FOR ACTION**

8 There is reasonable cause to believe that the following facts will be proven true and  
9 justify the denial of David Arthur Deschamp's application for an insurance producer license.

10 **FACT ASSERTIONS**

- 11 1. David Arthur Deschamps (Respondent) is a resident of the state of Montana.  
12 2. On November 29, 2008, Respondent took and successfully passed his life producer  
13 exam.  
14 3. On December 6, 2008, Respondent took and successfully passed his health producer  
15 exam.  
16 4. On or about December 10, 2008, Respondent made application to the Insurance  
17 Department for an individual producer license.  
18 5. Respondent stated that he had never been convicted of a felony in his application.  
19 6. Respondent swore upon his oath that the statements made in his application were  
20 true to the best of his knowledge, information, and belief.  
21 7. The Department conducted a criminal background check of the Respondent and  
22 discovered that Respondent had, in fact, been convicted of a felony for issuing a bad check on  
23 May 14, 1996, and was sentenced to 5 years to the Department of Corrections with 2 years  
24 suspended.  
25 8. On December 16, 2008, the Department notified Respondent, in writing, that his  
26 application for individual producer license was denied for fraud or misrepresentation in his  
27 application for failing to disclose his felony conviction.  
28



1 disclose his felony conviction in his application for an insurance producer's license and by  
2 failing to complete his application by producing copies of court records relating to his  
3 conviction.

4 10. Additionally and alternatively, the Commissioner may refuse to issue an insurance  
5 producer's license when an applicant for an insurance producer's license has been convicted  
6 of a felony, the conviction bears a close relationship to the occupation for which licensure is  
7 sought, and the applicant has not been sufficiently rehabilitated. Mont. Code Ann. §§ 33-17-  
8 1001(e), 37-1-203; *Ulrich v. Board of Funeral Services*, 289 Mont. 407, 961 P.2d 126 (1998).

9 11. The Department properly refused to issue an insurance producers license to  
10 Respondent because Respondent's felony conviction for writing a bad check is a crime  
11 involving financial dishonesty, bears a close relationship to the occupation of insurance  
12 producer which requires handling consumer money, and Respondent has not been sufficiently  
13 rehabilitated.

#### 14 RELIEF REQUESTED

15 For violating provisions of the Montana Code Annotated, the Department seeks that the  
16 Commissioner refuse to issue an insurance producer license to Respondent for fraud or  
17 misrepresentation pursuant to Mont. Code Ann. § 33-17-1001.

#### 18 STATEMENT OF RIGHTS

19 You, David Arthur Deschamps, are entitled to a hearing to respond to this Notice and  
20 present evidence and arguments on all issues involved in this case. A formal hearing has been  
21 scheduled as set out in the first page of this Notice before an impartial hearing examiner  
22 appointed by the Commissioner as provided in the Montana Administrative Procedure Act.  
23 Mont. Code Ann. § 2-4-601, *et seq.*

24 You have a right to be represented by legal counsel at any and all stages of this  
25 proceeding. If the attorney you choose has not been admitted to the practice of law  
26 in the State of Montana, she or he must comply with the Montana State Bar requirements for  
27 appearing *pro hac vice* and *Application of American Smelting and Refining, Co.*, 164 Mont. 139,  
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1 520 P.2d 103 (1973);and *Mont. Supreme Court Comm'n on the Unauthorized Practice of Law v.*  
2 *O'Neil*, 2006 MT 284, 334 Mont. 311, 147 P.3d 200 (2006).

3 **CONTACT WITH COMMISSIONER'S OFFICE**

4 If you have questions or wish to discuss this matter, please contact Michael Winsor,  
5 Special Assistant Attorney General, State Auditor's Office, 840 Helena Ave, Helena, MT,  
6 59601, (406) 444-2040 or, within Montana, (800) 332-6148. If you are represented by an  
7 attorney, please make any contacts with this office through your attorney.

8 **POSSIBILITY OF DEFAULT**

9 Failure to attend the hearing will result in the entry of a default order imposing any  
10 sanctions available under Montana law, without any additional notice to you, pursuant to  
11 Mont. Admin. R. 6.2.101 and the Attorney General's Model Rule 10, Mont. Admin. R.  
12 1.3.214.

13 DATED this 6<sup>th</sup> day of January, 2009.

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18 Michael Winsor  
19 Special Assistant Attorney General  
20 State Auditor's Office

