

**MIKE WINSOR**  
Office of the Commissioner of  
Securities & Insurance  
840 Helena Avenue  
Helena, MT 59601  
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Attorney for the Department of Insurance

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

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IN THE MATTER OF	)	
DLJ CATTLE COMPANY, and	)	CASE NO.: INS-2010-116
DAVID LEE JOHNSON,	)	
	)	<b>CONSENT AGREEMENT AND</b>
Respondents.	)	<b>FINAL ORDER</b>
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This Consent Agreement dated this 4<sup>th</sup> day of February, 2011, is between the Montana Insurance Department (“Department”) of the Office of the Commissioner of Securities and Insurance, State Auditor (“CSI”), acting pursuant to the authority of the Mont. Code Ann. § 2-4-603 and the Montana Insurance Code, Mont. Code Ann. § 33-1-101 *et. seq.*, DLJ Cattle Company, and David Lee Johnson (“Respondents”).

**RECITALS**

WHEREAS, a Department investigator, having conducted an investigation into this matter, alleged that the Respondents violated Mont. Code Ann. § 33-1-1202 by representing that a person was an employee when the person was not an employee in order to obtain group health

coverage and when the Respondent DLJ Cattle Company was not eligible for group health coverage.

WHEREAS, Respondents cooperated with the Department and have agreed to make restitution to Blue Cross Blue Shield of Montana.

WHEREAS, the Department and the Respondents agree that the parties' best interests would be served by entering into the following specific agreement and undertakings set forth below.

NOW THEREFORE, in consideration of the mutual undertakings established herein, the Department and the Respondents enter into the following:

#### **AGREEMENT**

The parties stipulate and agree to the following:

1. Respondents agree to make restitution to Blue Cross Blue Shield of Montana in the total amount of Three Thousand Six Hundred Sixty-Two Dollars and Eighty-Two Cents (\$3,662.82).

2. Respondents agree to pay the total amount of restitution by or before February 20, 2011. In the event that the Respondents fail to make restitution, as set forth in this Consent Agreement, the Respondents agree to the imposition of an administrative penalty in the amount of \$5,000.00 which will become immediately due upon the Respondents' failure to comply with this Consent Agreement. The check should be made payable to Blue Cross Blue Shield of Montana, and mailed to Blue Cross Blue Shield of Montana, c/o Karl Krieger, 404 Fuller Avenue, Helena, MT 59601.

3. The Respondents acknowledge the CSI and the Department have jurisdiction over the subject matter of the above entitled proceeding.

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

5. The Respondents stipulate and agree with the Department that this Consent Agreement fully resolves this matter.

6. The 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 the Respondents to enter into this Consent Agreement.

7. The Respondents specifically and affirmatively waive a contested case hearing, their right to appeal, and elect to resolve this matter on the terms and conditions set forth herein.

8. The Respondents fully and forever release and discharge the CSI, 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.

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 the 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. The 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 CSI and failure to comply with it may constitute a separate violation of the Montana Insurance Code, as provided in Mont. Code Ann. § 33-1-318, and may result in subsequent legal action by the Department.

12. Upon execution of this Consent Agreement and full payment of restitution penalty as set forth in Paragraphs 1-2 above, the Department will fully and forever release and discharge the Respondents, Respondents' employees, and Respondents' 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 will not commence any further administrative, civil, or other legal action based upon the regulatory non-compliance referenced hereinabove.

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

14. The 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.

DATED this 4<sup>th</sup> day of February 2011.



**MIKE WINSOR**

Attorney for the Department of Insurance

DATED this 2nd day of February, 2011.

**DLJ CATTLE COMPANY**

By: *David L. Johnson*  
**DAVID LEE JOHNSON**

Its: *President*  
(Official Title)

STATE OF MONTANA     )  
  :ss.  
County of: Yellowstone )

SUBSCRIBED and SWORN to before me this 2 day of February, 2011.



*Patricia M. DelZotto*  
(Signature)

Patricia M. DelZotto  
(Printed Name)

Notary Public for the state of: Montana

Residing at: Billings

My commissioner expires: 9/10/2012

**FINAL ORDER**

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

IT IS ORDERED that the foregoing Consent Agreement between the Department and the Respondent is hereby adopted as if set forth fully herein.

DATED this 4<sup>th</sup> day of February, 2011.

**MONICA J. LINDEEN**  
Commissioner of Securities and Insurance

By: \_\_\_\_\_

  
**ROBERT W. MOON**

Deputy Commissioner of Insurance

cc: Mike Winsor, Insurance Department  
Respondents