

MIKE WINSOR
State Auditor's Office
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Helena, Montana 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**

)	
)	CASE NO. INS-2010-27
IN THE MATTER OF JUNIE MALONEY,)	
)	CONSENT AGREEMENT AND
)	FINAL ORDER
Respondent.)	

This Consent Agreement dated this 27TH day of MAY, 2010, is between the Montana Insurance Department ("Department"), acting pursuant to the authority of the Insurance Code, Mont. Code Ann. § 33-1-101 *et. seq.*, and § 2-4-603, and Junie Maloney ("Respondent").

RECITALS

WHEREAS, the Department alleges that Respondent violated Mont. Code Ann. § 33-1-1202 by giving incomplete claim information to her automobile liability insurance company, Safeco Insurance Company, regarding an automobile accident that occurred on September 23, 2008, thereby obtaining payment to which Respondent was not entitled .

WHEREAS, Respondent has made full restitution to Safeco Insurance Company.

WHEREAS, Respondent neither admits nor denies the foregoing allegation.

WHEREAS, the Department and the Respondent 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 Respondent enter into the following:

AGREEMENT

The Department together with the Respondent hereby stipulate and agree to the following:

1. The Respondent acknowledges the Commissioner of Securities and Insurance, Office of the State Auditor (the "CSI"), and the Department have jurisdiction over the subject matter of the above-entitled proceeding.
2. The Respondent acknowledges she was advised of her option to be represented by legal counsel, has consulted with legal counsel regarding this Consent Agreement, and is satisfied with the services of her legal counsel.
3. The Respondent acknowledges that she has read and understands each term of this Consent Agreement and she enters into this Consent Agreement voluntarily and without reservation.
4. The Respondent stipulates and agrees with the Department that this Consent Agreement resolves the alleged violation set forth herein above.
5. The Respondent and the Department hereby acknowledges and agrees 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 Respondent to enter into this Consent Agreement.

6. The Respondent specifically and affirmatively waives her right to a contested case hearing and elects to resolve this matter on the terms and conditions set forth herein.

7. The Respondent fully and forever releases and discharges 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 matter.

8. 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.

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

10. The Respondent further understands 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 and, as provided in Mont. Code Ann. § 33-1-318, may result in subsequent legal action by the Department.

11. Upon execution of this Consent Agreement and full payment of an administrative fine as set forth in Paragraph 15 below, the Department will not commence any further administrative, civil, or other legal action based upon the allegations set forth herein above.

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

13. The Respondent acknowledges 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.

14. The Respondent shall henceforth comply with the Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.*

15. The Department and the Respondent further agree as follows:

(a) The Department and the Respondent hereby stipulate and agree to the imposition of an administrative fine upon the Respondent in the amount of \$500.00, \$250.00 of which shall be suspended subject to compliance with this Consent Agreement. Respondent agrees to pay the suspended portion of the administrative fine if, within the 12 months following the execution of the Final Order, Respondent fails to comply with this Consent Agreement and Final Order or fails to comply with the Montana Insurance Code.

(i) The \$250 check for the administrative fine shall be due within ten days of the effective date of this Consent Agreement as set forth in Paragraph 12 above, should be made payable to the Montana State Auditor's Office, and sent to the Montana State Auditor's Office, Attention: Mike Winsor, 840 Helena Avenue, Helena, MT, 59601.

DATED this 27TH day of May, 2010.



Mike Winsor
Attorney for the Department of Insurance

DATED this 27th day of May, 2010

Junie Maloney
JUNIE MALONEY

STATE OF MONTANA)

County of: Montana)
:ss

SUBSCRIBED and SWORN to before me this 27th day of May, 2010.

Sheri Kennedy
(Signature)

Sheri Kennedy
(Printed name)

Notary Public for the State of: Montana

Residing at: Butte

My Commission Expires: Dec. 20, 2010

FINAL ORDER

Pursuant to the authority vested by the Montana Insurance Code, Mont. Code Ann. § 2-4-603, and Mont. Code Ann. § 33-1-101, *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 Department of Insurance and the Respondents is hereby adopted as if set forth fully herein.

DATED this 27TH day of MAY, 2010.

MONICA J. LINDEEN
Commissioner of Securities and Insurance

By: 

ROBERT W. MOON
Deputy Commissioner of Insurance

cc: Junie Maloney, Respondent
Mike Winsor, Insurance Department