

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

IN THE MATTER OF:)	CASE NO. INS-2010-51
)	
BRIAN DOUGLAS NULL,)	TEMPORARY CEASE AND DESIST
)	ORDER
Respondent.)	

The State Auditor in her capacity as Commissioner of Securities and Insurance of the State of Montana (Commissioner), pursuant to the authority of the Insurance Code of Montana, Mont. Code Ann. § 33-1-101, *et seq.*, hereby issues the following allegations of fact, proposed conclusions of law, order and notice of right to a public hearing:

ALLEGATIONS OF FACT

1. Brian Douglas Null (Null) is a general contractor doing business from Laurel, Montana.
2. On or about January 27, 2010, the Montana Agency Alliance, LLC faxed a complaint letter to Policy Holder Services Bureau Compliance Specialist, Theresa Oakley indicating Null had provided an altered declarations page as proof of insurance to his customer.
3. The matter was then referred to the Investigations Bureau and assigned to Investigator Catrina Higgins (Higgins) for further investigation. Higgins relied on standard investigation methods, requesting information from Null, the alleged victim and the insurance agency, as well as conducting a criminal background check. Null failed to respond to Higgins' numerous requests for information.
4. Based on Higgins investigation, Null altered an insurance declarations page to indicate he had coverage for his commercial enterprise when, in fact, his policy had lapsed more than a year

prior to the complaint. The altered declarations page indicated Null's contracting business was covered from 11/16/2009 through 11/16/2010. His policy with the insurer QBE Insurance Corporation expired on 1/16/2009.

5. In January of 2010, Null performed some general contracting work by refinishing some wood floors in apartments managed by Riviera Management. Null's work was so poor that the property management company submitted a claim of damage to the floors. Upon the submission of the claim, the insurance agency contacted both the property manager and the Office of the State Auditor to indicate the declarations page had been altered by falsifying the coverage dates.

6. Higgins also conducted a criminal background check on Null. This revealed Null's history of bad check writing, including a felony bad check charge from North Dakota from which Null fled. Null was subsequently arrested on the North Dakota charge and was extradited to North Dakota to face the felony charge.

7. Subsequent to the January 27, 2010 complaint, Higgins has received another complaint indicating Null provided another altered declaration page to a potential customer. The altered declaration page was submitted to the Cogswell Agency for verification. The Cogswell Agency discovered the declaration page was altered with a false date of coverage. The altered declaration page provided to the new customer is substantially similar to the one provided to Riviera Management.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter pursuant to Mont. Code Ann. § 33-1-101, *et seq.*

2. Pursuant to Mont. Code Ann. § 33-1-1202 (1), a person commits the act of insurance fraud when the person presents or causes to be presented to an insurance producer a

written statement containing false information concerning any fact as part of or in support of a benefit pursuant to an insurance policy for the purpose of obtaining money.

3. Null violated Mont. Code Ann. § 33-1-1202 (1) by causing a claim to be submitted to Montana Agency Alliance that contained false information in the form of a false declaration page indicating he had insurance coverage when he did not.

4. Null violated Mont. Code Ann. § 33-1-1202 (1) by causing a claim to be submitted to the Cogswell Agency that contained false information in the form of a false declaration page indicating he had insurance coverage when he did not.

5. Pursuant to Mont. Code Ann. § 33-1-316, a person may not be excused from providing evidence in an investigation conducted pursuant to the Commissioner's constitutional and statutory powers.

6. Null violated Mont. Code Ann. § 33-1-316, by failing to respond to the numerous requests for information sent by Higgins during her investigation of this matter.

ORDER

Pursuant to Mont. Code Ann. § 33-1-318, it appears to the Commissioner that the above named Respondent committed acts constituting violations of the Insurance Code of Montana, including acts constituting insurance fraud, and, therefore, hereby orders Respondent to cease and desist any actions or activity wherein Respondent act in violation of the Insurance Code of Montana.

NOTICE

Respondent is notified that the Commissioner has issued this order temporarily ordering him to cease and desist violating the insurance code. If Respondent wishes to contest the allegations herein, he shall make a written request for a hearing to Roberta Cross Guns of this office within

15 days of receipt of this order. The hearing shall then be held within 20 days of the Commissioner's receipt of the hearing request unless otherwise agreed by the parties. If no hearing is requested within 15 days of receipt of this order by Respondent, and the Commissioner orders none, this cease and desist order shall become permanent.

Should Respondent request a hearing, he has the right to be accompanied, represented and advised by counsel. If the counsel Respondent chooses has not been admitted to the practice of law in the State of Montana, he or she must comply with the requirements of *Application of American Smelting and Refining Co.*, 164 Mont. 139, 520 P.2d 103 (1973), and *Montana Supreme Court Comm'n on the Unauthorized Practice of Law v. O'Neil*, 2006 MT 284, 334 Mont. 311, 147 P.3d 200.

DATED this 17th day of May, 2010.

MONICA LINDEEN
Commissioner of Securities and Insurance

Robert W. Moon
BY: Robert W. Moon
Deputy Insurance Commissioner

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served on the 17th day of May, 2010, by US mail, certified first-class postage paid, to the following:

Brian Null
419 1st Ave
Laurel, MT 59044

Arson Paulson - Davis