

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

IN THE MATTER OF:)	CASE NO. INS-2011-127
MICHAEL A. LOWEEN)	
in his capacity as a licensed insurance producer, License #67308)	TEMPORARY CEASE AND DESIST ORDER and ORDER SUSPENDING LICENSE
Respondent.)	

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

ALLEGATIONS OF FACT

1. Loween is a licensed insurance producer, license number 67308.
2. The Department of Insurance of the office of the Commissioner of Securities and Insurance, Montana State Auditor, filed an agency disciplinary action (complaint) against Loween in April 2010. The complaint alleged Loween had failed to provide a change of address or contact information to a consumer who was Loween's customer, and that Loween had failed to pay his state income taxes in violation of the Montana Insurance Code.
3. Loween entered into a consent agreement with the Department dated August 24, 2010. In the consent agreement, Loween agreed to the following:

a. affiliate himself with the Tinseth Agency for the purpose of supervision, and
b. provide the Department with a quarterly report summarizing each annuity transaction engaged in by Loween, including purchases, sales and withdrawals. The first report was due November 10, 2010.

4. Loween also entered into an agreement with the Department of Revenue (DOR) whereby he agreed to make monthly payments toward his arrearage of approximately \$65,000.

5. The consent agreement was recognized and adopted as an order of the Commissioner on August 26, 2010.

6. The Department received notice from the DOR that Loween had reneged on his agreement and that his tax bill is now in excess of \$108,000.

7. Loween also reneged on his agreement to provide quarterly reports regarding his annuity sales and the suitability of such sales by failing to timely file the required reports and by failing to provide complete documentation of the annuity sales transactions. Furthermore, Loween provided false information on the suitability documents he did provide to the Department.

8. The Department's investigator, Bryan Stanley, interviewed Loween regarding the notice from the DOR. Loween informed Stanley that Loween also owed in excess of \$200,000 in income taxes to the Internal Revenue Service.

9. Loween admitted to Stanley that Loween was promoting membership in an unfiled multi-level marketing program through Loween's Facebook account, in violation of Section 30-10-326(6), of the Securities Act of Montana. Loween was permanently banned from the securities industry in 2003 by action of the Financial Industry Regulatory Authority (FINRA, formerly known as NASD).

9. Loween denied any knowledge of an arbitration award of \$1,116,742.00 in damages he was ordered to pay to Montana claimants in an arbitration action instituted through FINRA. Loween was also ordered to pay to the claimants \$246,696.00 for attorney's fees, and \$17,101.00 in arbitration costs. The damage award continues to accrue interest at ten percent per annum until paid. Based on Loween's denial of any knowledge of the arbitration, the Department believes Loween has failed to pay any part of the awarded damages and fees.

10. Loween admitted to Stanley he once again failed to provide a timely change of address to the Department.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter by reason of the Respondent's licensure pursuant to Mont. Code Ann. § 33-17-101, et seq.

2. Pursuant to Mont. Code Ann. § 33-17-1001 (1) (c), the Commissioner may suspend or revoke an insurance producer's license when that person fails to comply with an order of the Commissioner.

3. Pursuant to Mont. Code Ann. § 33-17-1001(1)(f), the Commissioner may suspend or revoke an insurance producer's license when that person is incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public.

4. Pursuant to Mont. Code Ann. § 33-17-1001(1)(n), the Commissioner may suspend or revoke an insurance producer's license when that person fails to pay state income tax that is delinquent.

5. Pursuant to Mont. Code Ann. § 33-17-214(6)(a)(i), a person licensed as an insurance producer shall inform the Commissioner, in writing, of a change of address within 30 days of such change.

6. Respondent violated Mont. Code Ann. § 33-17-1001 by failing to comply with the Commissioner's order dated August 26, 2010.

7. Respondent violated Mont. Code Ann. § 33-17-1001 by acting in a manner that demonstrates incompetence, a lack of trustworthiness, financial irresponsibility, and that indicates Respondent is a source of injury and loss to the public when he reneged on the provisions of the consent agreement he signed on August 24, 2010.

8. Respondent violated Mont. Code Ann. § 33-17-1001 by acting in a manner that demonstrates incompetence, a lack of trustworthiness, financial irresponsibility, and that Respondent is a source of injury and loss to the public by failing to pay his state and federal income taxes.

9. Respondent violated Mont. Code Ann. § 33-17-1001 by acting in a manner that demonstrates incompetence, a lack of trustworthiness, financial irresponsibility, and that Respondent is a source of injury and loss to the public by promoting an unfiled multi-level marketing program.

10. Respondent violated Mont. Code Ann. § 33-17-1001 by acting in a manner that demonstrates incompetence, a lack of trustworthiness, financial irresponsibility, and that Respondent is a source of injury and loss to the public by failing to pay over \$1,000,000.00 in damages and fees he was ordered to pay by FINRA.

11. Respondent violated Mont. Code Ann. § 33-17-1001 by acting in a manner that demonstrates incompetence by failing on multiple occasions to provide written notice to the Commissioner of a change in his address within 30 days of such change, as required.

12. Respondent violated Mont. Code Ann. § 33-17-1001 by failing to pay his state income taxes and by continuing to be delinquent for those taxes.

13. Respondent violated Mont. Code Ann. § 33-17-214(6)(a)(i), by failing to provide a written notice to the Commissioner of a change in his address within 30 days of such change.

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, and, therefore, hereby orders Respondent to cease and desist any actions or activity wherein Respondent acts in violation of the Insurance Code.

Pursuant to Mont. Code Ann. § 33-17-1001, it appears to the Commissioner that the above-named Respondent has committed acts constituting violations of Mont. Code Ann. § 33-17-1001 (c), (f), and (n), and, therefore, finds the Respondent actions cause a public safety and welfare concern that warrants suspension of Respondent's insurance producer's license. Therefore, the Commissioner hereby orders suspension of Respondent's insurance producer's license.

NOTICE

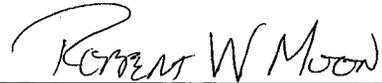
Respondent is notified that the Commissioner has issued this order temporarily ordering it to cease and desist violating the Insurance Code. If Respondent wishes to contest the allegations herein, it shall make a written request for a hearing to Roberta Cross Guns of this office within 15 days of receipt 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, it 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 7TH day of June, 2010.

MONICA LINDEEN
Commissioner of Securities and Insurance


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 7th day of June, 2011, by US mail, certified first-class postage paid, to the following:

Michael A. Loween
PO Box 7303
Kalispell, MT 59904