

MIKE WINSOR
Office of the Commissioner of Securities and
Insurance, Montana State Auditor (CSI)
840 Helena Avenue
Helena, MT 59601
(406) 444-2040

Attorney for the CSI

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

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)	
IN THE MATTER OF INSURANCE)	CASE NO.: INS-2012-259
PRODUCER LICENSE OF KIM)	
MCCAMPBELL, License No. 23034,)	NOTICE OF PROPOSED AGENCY
)	DISCIPLINARY ACTION AND
Respondent.)	OPPORTUNITY FOR HEARING
)	

Staff of the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), by and through counsel, and pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101, et seq. (Code), is proposing the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner) take specific action against the above-named Respondent for violating the Code. The Commissioner has authority to take such action under the provisions of Mont. Code Ann. §§ 33-1-102, 33-1-311, 33-1-314, 33-1-317, 33-17-1001 and 33-18-208.

Specifically, staff is proposing, pursuant to Mont. Code Ann. § 33-1-317, that the Commissioner impose a fine not to exceed \$5,000.00 for each violation of the Code for the Respondent, in addition to all other penalties imposed by the laws of Montana. Additionally, staff is proposing, pursuant to Mont. Code Ann. § 33-17-1001, that the Commissioner suspend or revoke the Respondent's insurance producer license.

REASONS FOR ACTION

There is probable cause to believe that the following facts, if true, justify and support such specific action.

ALLEGATIONS OF FACT

1. Kim McCampbell (Respondent) is a licensed insurance producer, license number 23034, whose principal place of business is located at 320 Expressway, Suite A, Missoula, Montana 59808.

2. The CSI received information that the Respondent was offering and intended to offer free dinners at insurance sales presentations throughout Montana. The solicitations for these presentations identified the Respondent as the presenter and appeared to target insurance consumers of retirement or pre-retirement age. The solicitations indicated that agents, brokers, and advisors were not permitted at the presentations.

3. On August 20, 2012, the CSI, through counsel, sent the Respondent a warning letter advising the Respondent that such free dinners were direct inducements to insurance in violation of Mont. Code Ann. § 33-18-208(4) to the extent that the value of the dinners exceeded \$5.00; and admonishing the Respondent against continuing to offer free dinners valued at over \$5.00.

4. Subsequently, the CSI received information that the Respondent continued to offer free dinners as inducements to insurance at sales presentations in Helena, Great Falls, and Butte.

5. A CSI insurance investigator determined that the free dinners at the Butte presentation were valued between \$16.95 and \$23.00.

6. On December 21, 2012, the CSI received information that the Respondent will be

holding free dinner insurance sales presentations at the Macaroni Grill in Great Falls on January 3, 2012, and on January 7, 2012. The solicitation for these presentations does not identify the Respondent as the presenter but lists his business address at the top of the solicitation.

CONCLUSIONS OF LAW

1. The CSI has jurisdiction over this matter. Mont. Code Ann. § 33-1-311.
2. The CSI administers the Insurance Department to protect insurance consumers. Mont. Code Ann. § 33-1-311(3).
3. A person or entity may not transact the business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the Montana Insurance Code. Mont. Code Ann. § 33-1-102(1)
4. "Transact," with respect to insurance, includes any of the following: (a) solicitation and inducement; (b) preliminary negotiations; (c) effectuation of a contract of insurance; or (d) transaction of matters subsequent to effectuation of the contract of insurance and arising out of it. Mont. Code Ann. § 33-1-201.
5. No person shall knowingly pay or allow or give or offer to pay, allow, or give, directly or indirectly, as inducement to such insurance or annuity any rebate of premiums payable on the contract or any special favor or advantage in the dividends or other benefits thereon or any paid employment or contract for services of any kind or any valuable consideration or inducement whatever not specified in the contract; or offer, promise, or give anything of value whatsoever not specified in the contract. Mont. Code Ann. § 33-18-208(2), (4).
6. The Respondent committed multiple violations of Mont. Code Ann. § 33-18-208 by offering to give and by giving free dinners for attending his insurance presentations.

RELIEF REQUESTED

WHEREFORE, the CSI seeks the following relief:

1. Pursuant to Mont. Code Ann. §§ 33-1-317, 33-17-1001, and 33-18-208, the imposition of a fine upon the Respondent not to exceed the sum of \$5,000 per each violation.
2. Pursuant to Mont. Code Ann. § 33-17-1001, the suspension or revocation of the Respondent's insurance producer's license.

STATEMENT OF RIGHTS

You are entitled to a hearing to respond to this notice, present evidence and arguments on all issues involved in this case. You have a right to be represented by an attorney at any and all stages of this proceeding. You may demand a formal hearing before a hearing examiner appointed by the Commissioner pursuant to the Montana Administrative Procedure Act, Mont. Code Ann. § 2-4-601, et seq., including § 2-4-631. If you demand a hearing, you will be given notice of the time, place and the nature of the hearing.

If you want to contest the proposed action, you must advise the Commissioner within 15 days of the date you receive this notice. You must advise the Commissioner of your intent to contest the proposed action by writing to Mike Winsor, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Avenue, Helena, Montana 59601. The matter shall then be promptly set for hearing. Your letter must clearly indicate whether you demand a hearing, or whether you waive formal proceedings and, if so, what informal proceedings you prefer for disposition of this case. Pursuant to Mont. Code Ann. § 2-4-603(2), you may not request to proceed informally if the action could result in suspension, revocation or any other adverse action against a professional license. If you request a hearing, you will be given notice of the date, time, and place of the hearing.

Should you request a hearing, you have the right to be accompanied, represented, and advised by counsel. If the counsel you choose has not been admitted to practice 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 Commission on the Unauthorized Practice of Law v. O'Neil*, 2006 MT 284, 334 Mont. 311, 147 P.3d 200.

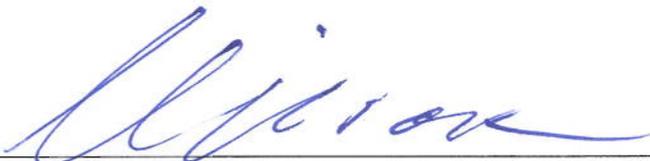
CONTACT WITH COMMISSIONER'S OFFICE

If you have questions or wish to discuss this matter, please contact Mike Winsor, legal counsel for the CSI, at 840 Helena Avenue, Helena, MT, 59601, 406-444-2040. If an attorney represents you, please make any contacts with this office through your attorney.

POSSIBILITY OF DEFAULT

Failure to give notice or to advise of your demand for a hearing or informal procedure within 15 days will result in the entry of a default order imposing the disciplinary sanctions against you without further notice to you, pursuant to Mont. Admin. R. 6.2.101, and the Attorney General's Model Rule 10, Mont. Admin. R. 1.3.214.

DATED this 21st day of December, 2012.



MIKE WINSOR
Attorney for CSI

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served on the 21 day of December, 2012, by U.S. mail, certified first-class postage paid, to the following:

Kim McCampbell
320 Expressway, Suite A.
Missoula, Montana 59808