

BRETT O'NEIL
Office of the Commissioner of Securities and Insurance
Montana State Auditor
840 Helena Avenue
Helena, MT 59601
406-444-2040

Attorneys for the CSI

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

IN THE MATTER OF)	CASE NO. INS-2013-165
)	
MARY BAIRD,)	NOTICE OF PROPOSED AGENCY
)	ACTION AND OPPORTUNITY FOR
Respondent.)	HEARING
)	
)	

Staff of the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101 et seq. (Code), is proposing to the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner), that she take specific action against Mary Baird (Respondent) for violations of the Code. The Commissioner has authority to take such action under the provisions of §§ 33-1-102, 33-1-301, 33-1-311, 33-1-315, 33-1-317, and 33-1-318. Service of process is pursuant to § 33-1-314.

REASONS FOR ACTION

There is probable cause to believe that the following facts, if true, justify and support such specific action. Furthermore, there is reason to believe that the following facts will be proven true, and, therefore, justify and support an appropriate fine.

ALLEGATIONS OF FACT

1. On January 23, 2012, the CSI and Respondent entered into a Consent Agreement wherein Respondent agreed to return \$6,355.00 to Allstate Insurance Company (Allstate) in 36 monthly installments of \$176.53. The agreement also required, among other things, Respondent to provide the CSI with copies of such payments. (Exhibit 1).
2. The Deputy Insurance Commissioner signed the Final Order on January 23, 2012. That order incorporated the terms of the Consent Agreement.
3. Check copies were not received for October and November 2012. On November 26, 2012, the CSI requested Respondent provide documentation regarding the payment. Respondent informed the CSI that she had not made the payments. Respondent requested a three month forbearance, and was rescheduled to make payments starting on February 26, 2013.
4. On March 4, 2013, the CSI contacted Respondent and requested a copy of the March payment to Allstate. Respondent provided a copy of the check on March 7, 2013.
5. Respondent made her April payment, and provided the CSI with a copy of that payment, in a timely fashion.
6. The CSI received no check copies, nor did Allstate receive any payments, for May, June, July, and August 2013.
7. On August 9, 2013, the CSI requested information regarding the missing payment information. Respondent's one word response was "Okay."
8. The CSI has still not received the requested information, nor has Allstate received payment for the identified months.
9. Respondent has not submitted her September or October payment to Allstate.
10. Respondent still owes Allstate \$4,768.23.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter pursuant to § 33-1-101 et seq.
2. A “person” is an individual, insurer, company, association, organization, partnership, business trust, corporation, or any other legal entity. § 33-1-202(3).
3. Respondent is a person.
4. A person may not engage in an act or practice constituting a violation of a provision of an order issued under the Montana Insurance Code. § 33-1-318.
5. Respondent violated the Commissioner’s order by not making restitution payments to Allstate as agreed upon, and by failing to provide documentation to the CSI concerning those payments for the following months:
 - a. October 2012
 - b. November 2012
 - c. May 2013
 - d. June 2013
 - e. July 2013
 - f. August 2013
 - g. September 2013
 - h. October 2013

RELIEF REQUESTED

WHEREFORE, the CSI seeks the following relief:

1. Pursuant to § 33-1-318(3), imposition of a fine not to exceed \$5,000 for each identifiable violation of the Commissioner’s order.

2. Pursuant to § 33-17-1001(c), revocation of Respondent's producer's license, #681926.

3. Pursuant to the Commissioner's previous Order, restitution in the amount of \$4,768.23, plus any additional interest resulting from Respondent's lack of repayment.

STATEMENT OF RIGHTS

You are entitled to a hearing to respond to this notice, and to 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, § 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 wish to contest the proposed action under the jurisdiction of the Commissioner, you must advise the Commissioner within 21 days of the date you receive this notice. You must advise the Commissioner of your intent to contest the proposed action by writing to Brett O'Neil, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Avenue, Helena, Montana 59601. 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 § 2-4-603(2), you may not request informal proceedings, as identified in § 2-4-604, if the action could result in suspension, revocation, or any other adverse action against a professional license. Should you request a hearing on the matters raised in this Notice, a hearing must be held within 45 days of the request, unless postponed by mutual consent of the parties, pursuant to § 33-1-701(3).

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.* (1973), 164 Mont. 139, 520 P.2d 103, and *Montana Supreme Court Commission on the Unauthorized Practice of Law v. O'Neil*, 2006 MT 284, 334 Mont. 311, 147 P.3d 200.

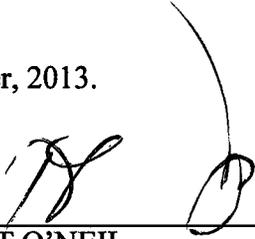
CONTACT WITH COMMISSIONER'S OFFICE

If you have questions or wish to discuss this matter, please contact Brett O'Neil, legal counsel for the CSI, at 840 Helena Avenue, Helena, MT, 59601, 406-444-2040. 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 11th day of October, 2013.



BRETT O'NEIL
Attorney for the CSI

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Helena, MT 59601
(406) 444-2040
bo'neil@mt.gov

Attorney for the CSI

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

IN THE MATTER OF:)	CASE NO. INS-2011-259
)	
MARY BAIRD,)	CONSENT AGREEMENT AND
)	FINAL ORDER
Respondent.)	
)	
)	

This Consent Agreement and Final Order (Agreement) is entered into by the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), acting pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101, et seq. (Code), and Mary Baird (Respondent).

RECITALS

WHEREAS, the CSI received a complaint from an insurer regarding the backdating of policies;

WHEREAS, the CSI alleged Respondent violated Mont. Code Ann. § 33-1-1201(1) by providing an untrue statement to an insurer;

WHEREAS, the CSI and Respondent agree that the best interests of the public would be served by entering into this Agreement;

NOW, THEREFORE, in consideration of the mutual undertakings contained in this Agreement, the CSI and the Respondent hereby agree to settle this matter pursuant to the following terms and conditions:

STIPULATIONS AND CONSENTS

I. Without admitting or denying any of the CSI's allegations, Respondent stipulates and consents to the following:

A. Respondent's insurance license shall be suspended for a period of one year, with six months suspended. Respondent shall be given credit for suspending her own license as of July 1, 2011.

B. Respondent shall return to Allstate Insurance Company a sum of \$6,355.00 in 36 monthly installments of \$176.53 each. The first submission shall be made by March 1, 2012.

C. Respondent shall submit copies of the monthly checks written to Allstate Insurance Company to the CSI. These copies, and any other documents submitted to the CSI under this Consent Agreement and Final Order, shall be sent to the Office of the Commissioner of Securities and Insurance, Montana State Auditor, c/o Lisa Monroe, 840 Helena Avenue, Helena, MT 59601.

D. Respondent shall submit monthly personal bank account statements to the CSI from the date of this agreement. The Respondent shall notify the CSI of the monthly statement date and submit copies of the statement from one week of that date.

WHEREAS, the CSI and Respondent agree that the best interests of the public would be served by entering into this Agreement;

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D. Respondent shall submit monthly personal bank account statements to the CSI from the date of this agreement. The Respondent shall notify the CSI of the monthly statement date and submit copies of the statement from one week of that date.

E. Respondent shall work under the supervision of a producer for 18 months. Respondent and the supervising agent shall enter into a written agreement whereby the supervising producer shall submit quarterly reports to the CSI. The quarterly reports shall address Respondent's dealings with the supervising agent including, but not limited to, the number of new clients, gross premium collected on behalf of Respondent's clients, confirmation that Respondent is depositing premium into the agency's trust account, and confirmation that the amount of premium gathered was submitted to the insurer. The agreement shall be submitted to the CSI prior to the Respondent entering into the insurance business.

F. Prior to January 31, 2012, Respondent shall gather and submit copies of all personal insurance policies currently in force. Any new applications for personal insurance shall be submitted to the CSI within one week of the application throughout the term of this Agreement.

G. Respondent shall submit all personal (non-medical) claims against insurers to the CSI throughout the term of this agreement.

H. Within two years from the date of this agreement, the Respondent shall attend ten hours of Ethics Continuing Education. This is in addition to Respondent's statutory duties regarding Continuing Education. Within two weeks of attending a Continuing Education course, a copy of the Course Completion Certificate shall be submitted to the CSI.

I. By February 15, 2012, Respondent shall enter an agreement with Ms. Carmine Mowbray regarding the severing of a business lease. The agreement shall be for a total of \$1,565.00 and shall stipulate how the money will be paid. A copy of the

agreement and copies of all checks written to Ms. Mowbray pursuant to the agreement shall be submitted to the CSI.

J. By January 31, 2012, Respondent shall submit a check in the amount of \$203.36 to the Insure Montana program regarding personal premium assistance after the Respondent's business closed. A copy of the check shall be submitted to the CSI.

K. By January 31, 2012, Respondent shall submit a check in the amount of \$254.06 to the Insure Montana program regarding business premium assistance. Any uncashed checks to the Baird 7 agency shall be returned to the CSI and deducted from the total. A copy of the check and any uncashed checks to the Baird 7 agency shall be submitted to the CSI.

L. The Respondent fully and forever releases and discharges the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner), the CSI, and all of the CSI's 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 Agreement.

M. The Respondent specifically and affirmatively waives a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act, Mont. Code Ann. § 2-4-101, et seq., and elects to resolve this matter on the terms and conditions set forth herein.

II. All parties to this Agreement stipulate and consent as follows:

A. The Commissioner and the CSI have jurisdiction over the subject matter of the above-entitled proceeding.

B. The CSI hereby agrees that it will not initiate any civil or administrative action against the Respondent regarding the allegations contained in this action for so long as the Respondent adheres to the terms of the Agreement.

C. This Agreement is entered without adjudication of any issue, law or fact. It is entered into solely for the purpose of resolving the CSI's allegations and is not intended to be used for any other purpose. For any person or entity not a party to this Agreement, this Agreement does not limit or create any private rights or remedies against the Respondent, limit or create liability of Respondent, or limit or create defenses of Respondent to any claims.

D. The applicable statute of limitation, Mont. Code Ann. § 33-1-707, is tolled for two years from the date of execution of this Agreement with regard to the allegations set forth above. In the event Respondent violates the terms of this Agreement at any time during the two-year tolling period, the CSI reserves the right to seek additional fines.

E. This Agreement constitutes the entire agreement between the parties and no other promises or agreements, either express or implied, have been made by the CSI or by any member, officer, agent or representative of the CSI to induce Respondent to enter into this Agreement.

F. This Agreement may not be modified orally, and any subsequent modifications to this Agreement must be mutually agreed upon in writing to be effective.

G. This Agreement shall be incorporated into and made a part of the attached Final Order issued by the Commissioner herein.

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

FINAL ORDER

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

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the CSI and
Respondent Mary Baird is adopted as if set forth fully herein.

DATED this 23RD day of August, 2012.

MONICA J. LINDEEN
Commissioner of Securities and Insurance,
Montana State Auditor

By: 
ROBERT W. MOON
Deputy Insurance Commissioner

cc: Brett O'Neil
Tim McKeon

I. The Agreement is a public record under Montana law and, as such, may not be sealed or otherwise withheld from the public.

DATED this 23rd day of January, 2012

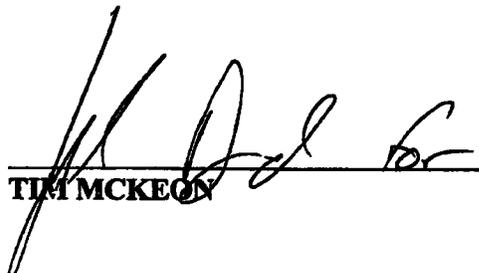
**OFFICE OF THE COMMISSIONER OF
SECURITIES AND INSURANCE,
MONTANA STATE AUDITOR**

By: 
BRETT O'NEIL
Attorney for the CSI

DATED this ___ day of _____, 2012


MARY BAIRD

Content approved by Attorney for Respondents:


TIM MCKEON