

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

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IN THE MATTER OF:	)	CASE NO. INS-2013-253
Douglas Dubin, and Brigitte Dubin,	)	<b>CONSENT AGREEMENT AND</b>
	)	<b>FINAL ORDER</b>
Respondents.	)	

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This Consent Agreement and Final Order (Agreement) is between 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. § 33-1-101et seq.; and Douglas Dubin and Brigitte Dubin (Respondents) (collectively, the Parties).

**RECITALS**

WHEREAS, Respondents received disability insurance from the Insure Montana Program (Program) through the business they owned and operated, Brockway Mercantile, from October 1, 2006, until December 31, 2013;

WHEREAS, Respondents received \$14,465.26 in premium assistance payments from the Program between 2010 and 2013;

WHEREAS, despite the fact that the entirety of the health insurance premium came from one bank account, Respondents maintain that Brockway Mercantile paid 50 percent of the disability insurance premium and Respondents, as individuals, paid the remaining 50 percent;

WHEREAS, the CSI alleges that contrary to Respondent's position, Brockway Mercantile paid 100 percent of the premium;

WHEREAS, according to § 33-22-2007(3) premium assistance payments must be paid pursuant to the plan of operation implemented by the Program Board of Directors and any applicable administrative rules;

WHEREAS, pursuant to Program policies and rules of operation an employee may not receive premium assistance payments if the employer pays 100 percent of the employee's insurance premium;

WHEREAS, according to § 33-22-2008(4)(b), Program participants must provide all necessary information to the CSI to correctly calculate the proper amounts of assistance payments;

WHEREAS, the CSI alleges that Respondents received premium assistance payments in error;

WHEREAS, the Parties agree that the best interests of the public would be served by entering into this Agreement.

NOW, THEREFORE, in consideration of mutual undertakings contained in this Agreement, the parties agree to settle this matter with the following terms and conditions:

**STIPULATIONS AND CONSENTS**

1. Without admitting or denying the allegations in this matter, Respondents stipulate and consent that:

A. Respondents will not attempt to re-enroll in the Program.

B. Respondents will reimburse six thousand five hundred dollars (\$6,500) in premium assistance payments back to the Program. Respondents will make this payment within 30 days following execution of this Agreement. This payment will be made payable to Insure Montana and sent to:

The Office of the Commissioner of Securities and Insurance  
c/o Insure Montana  
840 Helena Avenue  
Helena, MT 59601

C. Respondents fully and forever release and discharge the CSI and all CSI employees 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.

D. Respondents specifically and affirmatively waive a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act, § 2-4-101 et seq., and elect to resolve this matter on the terms and conditions set forth in this Agreement.

E. Respondents acknowledge that they were advised of the right to be represented by legal counsel and if represented by legal counsel, that such legal representation was satisfactory.

F. Respondents acknowledge that they have read and understand each term of the Agreement, and enter into this Agreement voluntarily and without reservation.

2. The parties to this Agreement stipulate and agree that:

A. This Agreement resolves all potential actions the CSI may charge against Respondents relating to the Program, and the CSI has no intention to impose any additional penalty, fine, or any other disciplinary action for the conduct alleged in the Recitals.

B. This Agreement is entered into without adjudication of any issue, law, or fact. It is entered into solely for the purpose of resolving the matter described in the Recitals, 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 alter, limit, or create any private rights or remedies against the parties.

C. This Agreement constitutes the entire agreement between the parties on this matter. No other promises or agreements, either express or implied, have been made between the CSI, or any member, officer, agent, or representative of the CSI, and Respondents related to this matter.

D. The CSI will not disseminate or make public Respondents' confidential criminal justice information, except as provided by Montana law.

E. This Agreement may not be modified orally. Any subsequent modifications to this Agreement will be in a mutually-agreed writing with the same formality as this Agreement.

F. This Agreement shall be incorporated into and made part of the attached Final Order issued by the Commissioner of Securities and Insurance, Montana State Auditor.

G. This Agreement will be effective upon signing of the Final Order.

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

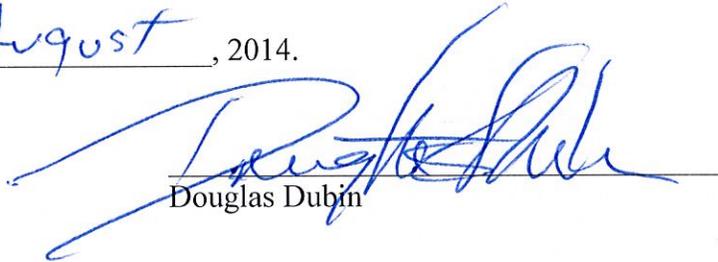
DATED this 14<sup>th</sup> day of August, 2014.

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



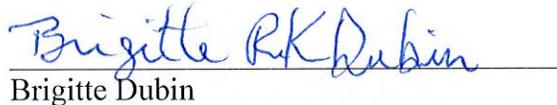
MICHAEL A. KAKUK  
Attorney for the CSI

DATED this 1<sup>st</sup> day of August, 2014.



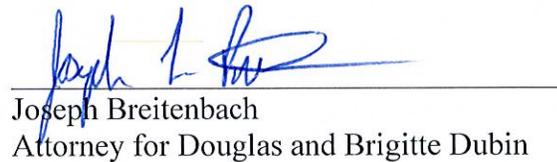
Douglas Dubin

DATED this 1<sup>st</sup> day of AUGUST, 2014.



Brigitte Dubin

Approved as to form on this 12<sup>th</sup> day of August, 2014.



Joseph Breitenbach  
Attorney for Douglas and Brigitte Dubin

**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 forgoing Agreement and there appearing to be good cause,

IT IS ORDERED that the foregoing Consent Agreement between the Office of the Commissioner of Securities and Insurance, Montana State Auditor, and Respondents Douglas Dubin and Brigitte Dubin, is adopted as set forth fully herein.

Dated this 14<sup>th</sup> day of August, 2014.

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

By:   
ADAM SCHAFFER  
Deputy State Auditor