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Attorney for the Department of Insurance

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

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|-----------------------------|---|----------------------------------|
| IN THE MATTER OF: |) | CASE NO. INS-2013-62 |
| |) | |
| SCOTT XAVIER WILLIAMS a.k.a |) | |
| MICHAEL WILLIAMS, |) | NOTICE OF PROPOSED AGENCY ACTION |
| |) | AND OPPORTUNITY FOR HEARING |
| |) | |
| |) | |
| Respondent. |) | |

Staff of the 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), are proposing to the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner) that she take specific action against Respondent Scott Xavier Williams, for violations of the Code. The Commissioner has authority to take such action under the provisions of §§ 33-1-301, 33-1-311, 33-1-314, 33-1-315, 33-1-317, 33-1-318, 33-1-701, 33-1-1202, 33-1-1202, 33-1-1211. 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.

ALLEGATIONS OF FACT

1. At all times material hereto, Respondent Scott Xavier Williams (Respondent) was the owner of a 1994 Pontiac Bonneville (the Vehicle) which was insured under his State Farm and Casualty Company (the Company) automobile insurance policy number 0446-210-65 (the Policy).
2. On or about August 8, 2012, Respondent made, or caused to be made, a partial theft and vandalism claim for payment indemnifying his purported loss with the Company on the Vehicle under the Policy (the Claim).
3. Pursuant to the Claim, Respondent made representations to the Company that items had been stolen from the Vehicle.
4. An investigation conducted by the Yellowstone County Sheriff's Office revealed that the various items Respondent represented to the Company as stolen from the Vehicle had not been stolen and had either been pawned, or sold to a pawn shop by the Respondent, or were otherwise within the Respondent's possession or control at the time the Respondent reported them as stolen.
5. The Company settled the Claim with Respondent as a total loss and paid the Respondent \$594.00, representing the vehicle value of \$1,405.00, less a \$500.00 deductible, and \$311.00 owner retained salvage. Additionally, the Company paid \$685.00 for towing and storage of the Vehicle, for a total financial loss to the Company of \$1,279.00.
5. The Company reported this matter as suspected fraud to the CSI pursuant to § 33-1-1205.

CONCLUSIONS OF LAW

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

2. "A person commits the act of insurance fraud when the person for the purpose of obtaining any money or benefit, presents or causes to be presented to any insurer . . . any written or oral statement . . . containing false, incomplete, or misleading information concerning any fact or thing material to, as part of, or in support of a claim for payment or other benefit pursuant to an insurance policy." § 33-1-1202(1).

3. By presenting oral statements to the Company which contained false, incomplete, or misleading information in support of his partial theft and vandalism insurance claim with the purpose of obtaining payment, Respondent violated § 33-1-1202(1).

4. Pursuant to §§ 33-1-317 and 33-1-1211, the Commissioner may impose a fine upon the Respondent up to \$25,000 per violation of the Code, require the Respondent to pay the costs of the proceedings herein, and require the Respondent to make restitution to the Company for all financial loss sustained as a result of the fraud.

RELIEF REQUESTED

WHEREFORE, the CSI seeks the following relief pursuant to §§ 33-1-317, 33-1-1211, and 33-1-1302:

- a. That Respondent be fined up to \$25,000.00 per violation of the Code, as justice may so require;
- b. That Respondent be ordered to pay the costs of the administrative proceedings herein; and
- c. That Respondent be ordered to make restitution to the Company for all financial loss sustained as a result of the Respondent's fraud in the amount of \$1,279.00 together with interest at the rate of ten percent per year from the date of the fraud.

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, 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 under the jurisdiction of the Commissioner, 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. 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 to proceed informally 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 or by order of the hearing examiner, pursuant to § 33-1-701(2).

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.

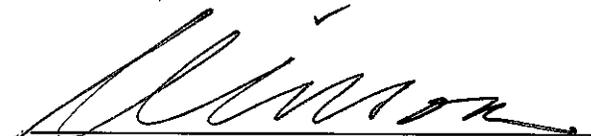
CONTACT WITH COMMISSIONER'S OFFICE

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 29th day of December, 2014.


MIKE WINSOR
Attorney for the CSI