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Commissioner of Securities and Insurance
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**MONTANA STATE AUDITOR
COMMISSIONER OF SECURITIES AND INSURANCE**

IN THE MATTER OF)	CASE NO. INS-2014-347
)	
JOSHUA RAY WALKER)	NOTICE OF PROPOSED AGENCY
)	ACTION AND OPPORTUNITY FOR
Respondent.)	HEARING
)	
)	

Staff of the Office of the Montana State Auditor, Commissioner of Securities and Insurance (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 Respondent Joshua Ray Walker (Respondent), for violations of the Code. The Commissioner has authority to take such action under the provisions of §§ 33-1-301, 33-1-311, 33-1-317, 33-1-318, 33-1-1202, and 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. On or about May 16, 2014, a tire that the Respondent was hauling in a 1998 Dodge pickup rolled out and caused damage to another vehicle.

2. The Dodge pickup that Respondent was driving was uninsured.
3. Respondent received a citation for driving without insurance as a result of the accident.
4. Respondent falsely represented to Farmers Insurance Exchange (FIE), that he was driving a 1997 Chevrolet Truck insured by Respondent's Grandfather's business insurance policy in order to obtain coverage for the accident.
5. FIE paid \$2,580.08 in repairs on the claim, and \$235.97 for vehicle rental in connection to the claim.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter pursuant to the Code.
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, purported insurer, producer, or administrator a 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. Mont. Code Ann. § 33-1-1202(1).
3. Respondent committed insurance fraud by falsely stating to FIE that Respondent was driving a truck that was insured under his grandfather's business policy at the time of the subject accident in order to obtain the benefit of insurance coverage, when in fact he was driving a truck that was uninsured.
4. If, after notice and a hearing, the Commissioner determines that the Respondent committed insurance fraud, the Commissioner may impose a fine up to \$25,000 for each act of insurance fraud, require the Defendant to pay costs of the proceeding, and may require the Defendant to make restitution to FIE. §§ 33-1-317, 33-1-1202, 33-1-1211.

RELIEF REQUESTED

WHEREFORE, the CSI seeks the following relief:

1. That the Commissioner fine the Respondent no more than \$25,000 for each act of insurance fraud, and to make full restitution to FIE pursuant to §§ 33-1-317 and 33-1-1211.

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 nature of the hearing.

If you want 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:

Mike Winsor
Office of the Montana State Auditor
Commissioner of Securities and Insurance
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, 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.*, 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, by telephone at (406) 444-2040, or by email at mwinsor@mt.gov. 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 14 of March, 2016.


Mike Winsor
Attorney

CERTIFICATE OF SERVICE

This is to certify that a true and accurate copy of the foregoing document was sent by U.S. mail, postage paid, this 16 day of March, 2016, to the following:

Joshua Ray Walker
260 Trumble Creek Road
Kalispell, MT 59901


