

**MICHAEL A. KAKUK**  
 Office of the Montana State Auditor,  
 Commissioner of Securities and Insurance (CSI)  
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Attorney for the CSI

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

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IN THE MATTER OF:	)	CASE NO. INS-2014-67
	)	
SAFECO INSURANCE COMPANY OF	)	<b>CONSENT AGREEMENT AND</b>
ILLINOIS, SAFECO INSURANCE	)	<b>FINAL ORDER</b>
COMPANY OF OREGON, GENERAL	)	
INSURANCE COMPANY OF AMERICA,	)	
LIBERTY MUTUAL FIRE INSURANCE	)	
COMPANY, THE FIRST LIBERTY	)	
INSURANCE CORPORATION, and	)	
LIBERTY INSURANCE CORPORATION,	)	
	)	
Respondents.	)	

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This Consent Agreement (Agreement) is entered into by the Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI), acting pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101 et seq. (Code), Safeco Insurance Company of Illinois, Safeco Insurance Company of Oregon, General Insurance Company of America (collectively, Safeco Respondents), and Liberty Mutual Fire Insurance Company, The First Liberty Insurance Corporation, and Liberty Insurance Corporation (Liberty Mutual). The Final Order (Order) is issued by the authority of the Commissioner of Securities and Insurance, Office of the Montana State Auditor (Commissioner).

## RECITALS

WHEREAS, in a sixteen-month period, Safeco Respondents asserted comparative negligence in 35 of 226 Montana automobile insurance claims where the files did not reflect a reasonable basis in law or fact, or both, to support such claims;

WHEREAS, in some of those 35 files, Safeco Respondents fully paid undisputed property damage and medical special damages without asserting comparative negligence, but later applied a comparative negligence reduction to these damage amounts fully paid as an offset to the value of remaining damages offered to settle (comparative negligence settlement practice);

WHEREAS, in nine Montana automobile insurance claims Safeco Respondents failed to disclose to claimants, policyholders, and/or the CSI their comparative negligence settlement practice;

WHEREAS, in two Montana automobile insurance claims Safeco Respondents stated to the CSI that claimants' claims would be paid in full but reduced those claims per Respondents' comparative negligence settlement practice;

WHEREAS, Safeco Respondents reviewed their recent automobile insurance claims in Montana where comparative negligence was assessed between April 1, 2012 and July 1, 2013, including all claims noted in the two preceding paragraphs, and issued restitution payments for 35 claimants where the files did not reflect a reasonable basis in law and/or fact to support the comparative negligence determination previously asserted by Safeco Respondents;

WHEREAS, Liberty Mutual also handles private passenger automobile insurance claims in Montana, and Safeco Respondents and Liberty Mutual share upper management of their claims processing divisions;

WHEREAS, the CSI, Safeco Respondents, and Liberty Mutual 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, Safeco Respondents, and Liberty Mutual hereby agree to settle this matter pursuant to the following terms and conditions:

**STIPULATIONS AND CONSENTS**

- I. Safeco Respondents and Liberty Mutual stipulate and consent to the following:
  - A. Safeco Respondents and Liberty Mutual neither admit nor deny the allegations in the Recitals, above.
  - B. Within ten business days from the effective date of this Agreement, Safeco Respondents shall pay a fine of ninety-five thousand dollars (\$95,000.00). The payment shall be in the form of check made payable to the State of Montana, and sent to:

Montana State Auditor  
c/o Michael A. Kakuk  
840 Helena Avenue  
Helena, MT 59601

- C. Safeco Respondents and Liberty Mutual agree to assert comparative negligence only when a reasonable basis exists to support that assertion and to document their files to reflect the reasonable basis in law and/or fact supporting that comparative negligence determination.

D. Safeco Respondents and Liberty Mutual agree not to reduce a claim settlement offer based on comparative negligence, unless the comparative negligence assessment is fully disclosed to the claimant or the claimant's representative.

E. Safeco Respondents and Liberty Mutual agree not to state to the CSI that a claim will be paid in full if there is a comparative negligence assessment in the claim file, or if any Safeco Respondent or Liberty Mutual otherwise intends to assert a theory of comparative negligence to reduce a claim settlement.

F. Subject to notice and an opportunity to be heard, Safeco Respondents and Liberty Mutual shall be subject to a fine of five thousand dollars (\$5,000.00) for any act or occurrence that constitutes a violation of paragraph C, D, or E, above, and that occurs within two years of the effective date of this Agreement. That \$5,000.00 fine shall be in addition to any other remedy or penalty the CSI may impose for a violation of the Code.

G. Safeco Respondents and Liberty Mutual shall provide training and materials to effectuate the requirements of paragraphs C, D, E, to all adjusters and any others who handle claims on behalf of Safeco Respondents or Liberty Mutual. This training or dissemination of written materials shall occur within 60 days of the effective date of this Agreement.

H. Safeco Respondents and Liberty Mutual fully and forever release and discharge the CSI, its employees, and its 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.

I. Safeco Respondents and Liberty Mutual specifically and affirmatively waive a contested case hearing and all rights to appeal under the Montana Administrative

Procedure Act, Mont. Code Ann. § 2-4-101 et seq., and elect to resolve this matter on the terms and conditions set forth herein.

J. Safeco Respondents and Liberty Mutual acknowledge that this Agreement is signed by their authorized representatives, each of whom has read and understands each term of this Agreement.

K. Safeco Respondents and Liberty Mutual acknowledge that their legal representation was satisfactory.

L. Safeco Respondents and Liberty Mutual acknowledge that they enter into this Agreement voluntarily and without reservation.

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

A. The CSI has jurisdiction over the subject matter of this Agreement.

B. This Agreement is entered without adjudication of any issue, law, or fact.

It is entered solely for the purpose of resolving the CSI's investigation and allegations, and is not to be used for any other purpose.

C. The CSI warrants and represents that so long as Safeco Respondents and Liberty Mutual comply with the terms of this Agreement, the CSI will not bring any further action against Safeco Respondents or Liberty Mutual arising from facts known to the CSI as of the date of the Agreement relating to the Recitals.

D. 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 Safeco Respondents or Liberty Mutual to enter into this Agreement.

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

F. This Agreement shall be incorporated into and made part of the attached Order issued by the Commissioner.

G. The Order will be an order of the Commissioner and is effective upon signing. The CSI has jurisdiction over the enforcement of the Order, and failure to comply with it may constitute a separate violation of the Code, pursuant to §§ 33-1-317 and 318, and may result in subsequent legal action by the CSI.

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

I. This Agreement and Order are public records under Montana law and as such may not be sealed or otherwise withheld from the public.

DATED this 4<sup>th</sup> day of May, 2015.

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

By:   
**MICHAEL A. KAKUK**  
Attorney for the CSI

APPROVED AS TO FORM this 28<sup>th</sup> day of April, 2015.

By:   
**MICHELE McCORMICK**  
Attorney for Respondents

DATED this 28<sup>th</sup> day of April, 2015.

**SAFECO INS. CO. of ILLINOIS**

By: Michele Stretton

Name: Michele Stretton

Its: SVP, Personal Insurance Claims Field Operations Manager

DATED this 28<sup>th</sup> day of April, 2015.

**SAFECO INS. CO. of OREGON**

By: Michele Stretton

Name: Michele Stretton

Its: SVP, Personal Insurance Claims Field Operations Manager

DATED this 28<sup>th</sup> day of April, 2015.

**GENERAL INS. CO. of AMERICA**

By: Michele Stretton

Name: Michele Stretton

Its: SVP, Personal Insurance Claims Field Operations Manager

DATED this 28<sup>th</sup> day of April, 2015.

**LIBERTY MUTUAL FIRE INS. CO.**

By: Michele Stretton

Name: Michele Stretton

Its: SVP, Personal Insurance Claims Field Operations Manager

DATED this 28<sup>th</sup> day of April, 2015.

**THE FIRST LIBERTY INS. CORP.**

By: Michelle Stretton

Name: Michelle Stretton

Its: SVP, Personal Insurance Claims Field Operations Manager

DATED this 28<sup>th</sup> day of April, 2015.

**LIBERTY INS. CORP.**

By: Michelle Stretton

Name: Michelle Stretton

Its: SVP, Personal Insurance Claims Field Operations Manager

**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 Respondents Safeco Ins. Co. of Illinois, Safeco Ins. Co. of Oregon, General Ins. Co. of America, and Liberty Mutual Ins. Co., is adopted as if set forth fully herein.

DATED this 24th day of May, 2015.

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

By: 

**JESSE LASLOVICH**  
Deputy Commissioner of Securities and Insurance,  
Office of the Montana State Auditor

cc: Michael A. Kakuk  
Michele McCormick