

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

IN THE MATTER OF SCOTT JOHNSON, Respondent.	CASE NO.: INS-2015-116 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER
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On June 26, 2015, the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), filed a Notice of Agency Action and Opportunity for Hearing (Notice) against Respondent Scott Johnson (Respondent). The Notice alleged Respondent committed multiple violations of the Montana Insurance Code, Mont. Code Ann. § 33-1-101 et seq. (the Code) and is attached to this Order as Exhibit A. Respondent accepted service of the Notice on June 30, 2015. A copy of the certified return is attached to this Order and marked as Exhibit B.

The Notice provided an opportunity for hearing if requested within 15 days. More than 15 days have elapsed since Respondent accepted service of the Notice and no request for a hearing has been received.

Based upon the CSI's investigation, the attached Affidavit of Bryan Stanley (Exhibit C), and all other exhibits and evidence, the Commissioner of Securities of Insurance, Montana State Auditor (Commissioner), makes the following:

FINDINGS OF FACT

1. Respondent is a licensed Montana insurance producer, license # 0000058368.
2. In April 2013, K.T. and S.R. requested Respondent procure a homeowner's policy on their behalf.

3. Respondent provided an insurance binder to the closing company indicating the property was insured. The mortgage company received this information and duly submitted a premium check.
4. In April 2014, the mortgage company discovered the property was uninsured and its premium check had not been cashed. Respondent admitted he had not cashed the check
5. On May 5, 2015, the CSI sent a warning letter to Respondent regarding this transaction.
6. In June 2015, the CSI discovered this was not an isolated incident. From October 2, 2013 – March 3, 2015, Respondent failed to remit payment to an insurance company 3 times regarding D.S.'s account.
7. On June 2, 2015, American National Insurance Company (ANICO) provided the CSI with a total of 8 complaints regarding Respondent.
8. CSI investigators requested Respondent contact them. As of August 13, 2015, he had not done so.
9. The CSI legal department sent a letter to the Respondent requesting information on June 11, 2015. The CSI included a response date of June 19, 2015. To date, Respondent has neither replied to CSI legal staff or its investigators.
10. Respondent received the Notice on June 30, 2015 and has not demanded a hearing or requested informal settlement talks. Indeed, Respondent has not contacted the CSI.

CONCLUSIONS OF LAW

1. The CSI has jurisdiction over this matter § 33-1-311.
2. The CSI administers the Code to protect insurance consumers. § 33-1-311.

3. The Commissioner may revoke an insurance producer's license when an applicant is incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public.

§ 33-17-1001(1)(f)

4. Respondent's repeated failures to remit payment to insurance companies and forcing insureds to go without coverage despite having submitted payment to their insurance producer demonstrates Respondent is incompetent, untrustworthy, financially irresponsible, or a source of injury or loss to the public.

5. The Commissioner may revoke an insurance producer's license when an applicant has violated or failed to comply with a provision of the Code. § 33-17-1001(1)(c)

6. It is a violation of the Code to willfully collect any sum as premium or charge for insurance that is not then provided or is not in due course to be provided. § 33-18-212(1).

7. Respondent violated the Code when he collected premium but failed to remit the premium to the affiliated insurer

8. A producer must answer or produce records, documents, or other evidence requested by the Commissioner or the Commissioner's designee. § 33-1-315(5).

9. Respondent failed to answer or produce records in connection with CSI investigator requests.

10. Pursuant to Admin. R. Mont. 6.2.101 and Admin. R. Mont. 1.3.214, a default order may be imposed when a Respondent does not timely answer a Notice of Agency Action.

11. Respondent failed to timely answer the CSI's June 30, 2015 Notice of Agency Action.

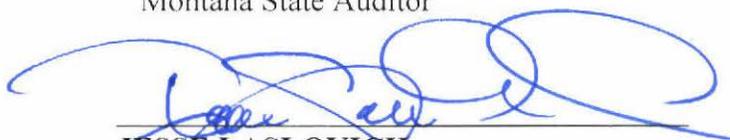
12. The Commissioner, having considered the findings of fact and the aforementioned conclusions of law, finds cause exists under § 33-17-1001 to revoke Respondent's license.

ORDER

Based on those Findings of Fact and Conclusions of Law, it is ORDERED that the insurance producer license of Respondent Scott Johnson, license # 0000058368, is hereby revoked as of August 13, 2015.

DATED this 14th of August, 2015.

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



JESSE LASLOVICH
Deputy State Auditor

CERTIFICATE OF SERVICE

This is to certify that a true and accurate copy of the Final Order by Default was sent by U.S. mail, postage paid, this 14th day of August, 2015, to the following:

Scott Johnson
809 Dixon
Missoula, MT 59801

Scott Johnson
1014 South Avenue West, Suite C
Missoula, MT 59801



ALLEGATIONS OF FACT

1. Respondent is a licensed Montana insurance producer, license # 0000058368.
2. In April 2013, K.T. and S.R. requested Respondent procure a homeowner's policy on their behalf.
3. Respondent provided an insurance binder to the closing company to indicate the property was insured. The mortgage company received this information and duly submitted a premium check.
4. In April 2014, the mortgage company discovered the property was uninsured and its check had not been cashed.
5. On May 5, 2015, the CSI sent a warning letter to Respondent regarding this transaction.
6. In June 2015, the CSI discovered this was not an isolated incident *to wit*: from October 2, 2013 – March 3, 2015, Respondent failed to remit payment to an insurance company 3 times regarding D.S.'s account.
7. On June 2, 2015, American National Insurance Company (ANICO) provided the CSI with a total of 8 complaints regarding Respondent. CSI investigators requested Respondent contact them. As of June 11, 2015, he had not done so.
8. The CSI legal department sent a letter to the Respondent requesting information on June 11, 2015. The CSI included a response date of June 19, 2015. To date, Respondent has neither replied to CSI legal staff or its investigators.

CONCLUSIONS OF LAW

1. The CSI has jurisdiction over this matter. § 33-1-311.
2. The CSI administers the Code to protect insurance consumers. § 33-1-311.

3. The Commissioner may revoke an insurance producer's license when an applicant is incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public. § 33-17-1001(1)(f).
4. Respondent's repeated failures to remit payment to insurance companies, thus forcing insured's to go without coverage despite having submitted payment to their insurance producer, demonstrates Respondent is incompetent, untrustworthy, financially irresponsible, or a source of injury or loss to the public.
5. The Commissioner may revoke an insurance producer's license when an applicant has violated or failed to comply with a provision of the Code. § 33-17-1001(1)(c).
6. It is a violation of the Code to willfully collect any sum as premium or charge for insurance that is not then provided or is not in due course to be provided. § 33-18-212(1).
7. Respondent violated the Code when he collected premium but failed to remit the premium to the affiliated insurer.
8. A producer must answer or produce records, documents, or other evidence requested by the Commissioner or the Commissioner's designee. § 33-1-315(5).
9. Respondent failed to answer or produce records in connection with CSI investigator requests.

RELIEF REQUESTED

WHEREFORE, the CSI seeks the following relief:

1. That the Commissioner revoke Respondent's insurance producer license, # 0000058368, in accordance with § 33-17-1001(1)(c), (f).
2. That the Commissioner impose a fine not to exceed \$5,000 per violation of the Code, in accordance with § 33-1-317.

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 wish 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 Brett O'Neil, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Avenue, Helena, Montana 59601.

Your written notice must clearly indicate whether you demand a hearing, or whether you waive formal proceedings and, if so, what informal proceedings you prefer for handling 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. If you request a hearing, you will be given notice of the date, time, and place of 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 Shanni Barry, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 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 26th day of June, 2015.



BRETT O'NEIL
Attorney for CSI

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 26th day of June, 2015, to the following:

Scott Johnson
809 Dixon
Missoula, MT 59801

Scott Johnson
1014 South Avenue West, Suite C
Missoula, MT 59801



EXHIBIT
B

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p>Scott Johnson 809 Dixon Missoula, MT 59801</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7013 2630 0001 3546 7466</p>
<p>PS Form 3811, February 2004 Domestic Return Receipt <i>INS-2015-1118</i> 102595-02-M-1540</p>	

UNITED STATES POSTAL SERVICE

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MONICA J LINDEEN
COMMISSIONER OF SECURITIES & INSURANCE
MONTANA STATE AUDITOR
840 HELENA AVENUE
HELENA MT 59601

Attn: Legal



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p style="text-align: center;">Scott Johnson 1014 South Avenue W, Suite C Missoula, MT 59801</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7013 2630 0001 3546 7459</p>

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MONICA J LINDEEN
COMMISSIONER OF SECURITIES & INSURANCE
MONTANA STATE AUDITOR
840 HELENA AVENUE
HELENA MT 59601

Atto: Legal



- c. Respondent provided an insurance binder to the closing company indicating the property was insured. The mortgage company received this information and duly submitted a premium check.
- d. In April 2014, the mortgage company discovered the property was uninsured and its premium check had not been cashed. Respondent admitted he had not cashed the check.
- e. On May 5, 2015, the CSI sent a warning letter to Respondent regarding this transaction.
- f. In June 2015, the CSI discovered this was not an isolated incident to wit: from October 2, 2013 – March 3, 2015, Respondent failed to remit payment to an insurance company 3 times regarding D.S.'s account.
- g. On June 2, 2015, American National Insurance Company (ANICO) provided the CSI with a total of 8 complaints regarding Respondent.
- h. I requested Respondent contact me on June 4, 2015. As of August 13, 2015, he had not done so.

BK

BRYAN STANLEY

Investigator

SUBSCRIBED AND SWORN to before me this 13th day of August, 2015, by Bryan

Stanley.

Shanni K. Barry
 NOTARY for the STATE OF MONTANA

