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

IN THE MATTER OF)	CASE NO. INS-2014-147
)	
ALEX DAVID KLEBER and)	FINAL ORDER BY DEFAULT
ROSEMARIE ELLEN KLEBER, aka)	
ELLEN WINDDANCER KLEBER,)	
)	
Respondents.)	

On May 5, 2015, the Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI), filed a Notice of Agency Action and Opportunity for Hearing (Notice) against Alex David Kleber and Rosemarie Ellen Kleber, aka Ellen Winddancer Kleber (Respondents). The Notice alleged that Respondents committed insurance fraud, in violation of Mont. Code Ann. § 33-1-1202.

Respondents chose not to answer or otherwise defend within 21 days of service of the Notice. On July 28, 2015, the CSI moved for entry of a final order by default against Respondents.

Based upon the CSI's motion and attached Affidavits of Michael A. Kakuk and Bryan Stanley the Commissioner of Securities of Insurance, Office of the Montana State Auditor (Commissioner), makes the following determinations:

FINDINGS OF FACT

1. In March of 2011, Ms. Kleber started employment at Marcus Daly Memorial Hospital in Hamilton, Montana, and obtained health insurance through Blue Cross Blue Shield of Montana (BCBS). Ms. Kleber did not add Mr. Kleber to her health insurance.
2. Starting in May 2011, Mr. Kleber started submitting prescriptions at Corvallis Drug Store under Ms. Kleber's policy number.
3. When questioned by Pharmacists Karen L. Anderson and Lori S. Pape of Corvallis Drug Store, Mr. Kleber gave them the policy number and birthdate of Ms. Kleber. Mr. Kleber was adamant that he had the same birthdate as Ms. Kleber, when in fact he has a different birthdate.
4. Between May 2011 and March 2013, Mr. Kleber used the false birthdate and policy information to collect \$1,414.44 in prescription drugs under Ms. Kleber's insurance.
5. Ms. Kleber was aware of and complicit in Mr. Kleber's submission of those prescriptions using false information.
6. In 2013, BCBS ceased operations as a health insurer and changed its name to Caring for Montanans, Inc. Any refund of the money spent on Mr. Kleber's prescriptions should be paid to the entity Caring for Montanans, Inc.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter pursuant to § 33-1-311.
2. A "person" is an individual, insurer, company, association, organization, partnership, business trust, corporation, or any other legal entity. § 33-1-202(3).
3. Respondents are "persons" as defined by § 33-1-202(3).

4. It is insurance fraud when a person presents or causes to be presented to an insurer any written or oral statement, including computer-generated documents, containing false, incomplete, or misleading information concerning any fact material to, as part of, or in support of any claim for payment pursuant to an insurance policy. § 33-1-1202(1).

5. Mr. Kleber violated § 33-1-1202(1) when he submitted prescriptions under Ms. Kleber's health insurance policy and birthdate.

6. It is insurance fraud to assist, abet, solicit, or conspire with another to prepare any written or oral statement containing false, incomplete, or misleading information concerning any fact that is intended to be presented to any insurer or in connection with, material to, or in support of any claim for payment pursuant to an insurance policy. § 33-1-1202(2).

7. Ms. Kleber violated § 33-1-1202(2) when she assisted or conspired with Mr. Kleber to submit his prescriptions under her health insurance policy.

ORDER

Based on those findings of fact and conclusions of law, it is ORDERED that Respondents, jointly and severally, shall be liable to Caring for Montanans in the amount of \$1,414.44.

This amount shall be due and owing upon the entering of this Final Order.

DATED this 19th of August, 2015.



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