

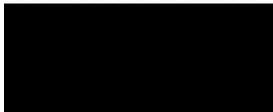
NICK MAZANEC
Office of the Montana State Auditor
Commissioner of Securities and Insurance (CSI)
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Helena, MT 59601
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Attorney for the CSI

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

)	
)	
IN THE MATTER OF)	CASE NO.: INS-2015-225
)	
COLLEEN M. BUZZELL,)	NOTICE OF PROPOSED AGENCY
)	ACTION AND OPPORTUNITY FOR
Respondent.)	HEARING
)	
)	(License Revocation)
)	

TO: Colleen M. Buzzell



PLEASE TAKE NOTICE

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., is proposing that the Commissioner of Securities and Insurance, Office of the Montana State Auditor (Commissioner) take disciplinary action against the insurance producer license of Colleen M. Buzzell (Respondent). Specifically, the CSI is proposing that the Commissioner revoke Respondent's insurance producer license pursuant to § 33-17-1001.

The Commissioner has authority to take such action under the provisions of §§ 33-1-102, 33-1-311, 33-17-201, 33-1-317, and 33-17-1001. Service of process is effectuated pursuant to § 33-1-314.

REASONS FOR ACTION

There is reasonable cause to believe that the following facts will be proven true and justify disciplinary action against the insurance producer license of Respondent

ALLEGATIONS OF FACT

1. On August 12, 2013, Respondent applied to the Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI) for an individual producer license. On December 4, 2013, the CSI refused to issue an individual producer license to Respondent. On December 11, 2013, the CSI received a written demand for hearing from Respondent regarding the license denial.
2. On January 2, 2014, the CSI filed a Notice of Proposed Agency Action and Opportunity for Hearing on Denial of Producer License due to Respondent's hearing demand. This notice set forth the allegations of fact and conclusions of law forming the basis for the CSI's licensure denial. The CSI amended the filing twice, most recently in the Second Amended Notice of Proposed Agency Action and Opportunity for Hearing on Denial of Producer License (Second Amended Notice), which was filed on January 16, 2014. (*See Exhibit A.*)
3. On January 27, 2014, a contested case hearing was held regarding Respondent's licensure denial. On April 14, 2014, the hearing examiner issued Hearing Examiner's Proposed Findings of Fact, Conclusions of Law, and Order, in which the hearing examiner recommended to the Commissioner that Respondent's license application be denied

4. In September of 2014, the CSI and Respondent entered into a consent agreement (Agreement) informally resolving the pending matter. (See Exhibit B.) Under the Agreement, Respondent was granted a probationary insurance producer license subject to a number of conditions. Specifically, Respondent agreed to pay \$1,905 to the State of Montana Real Estate Recovery Account (RERA), in monthly increments of \$110. Respondent also agreed to submit copies of these monthly payments to the CSI for review. Additionally, Respondent agreed to comply with the terms and conditions of the Agreement, the Montana Insurance Code, and all other state regulations. On September 12, 2014, the Commissioner executed and served upon Respondent a final order (Final Order) adopting the terms of the Agreement.

5 In December of 2014, staff for the Department of Labor and Industry (DLI) notified the CSI that Respondent had made no payments to the RERA as required under the Agreement. Additionally, the CSI had received no copies of monthly RERA payments. After being contacted by the CSI regarding her delinquency, Respondent sent a money order valued at \$610 to the RERA, and forwarded a copy to the CSI.

6. Between December of 2014 and September 21, 2015, Respondent made no further payments to the RERA, and forwarded no payment copies to the CSI. When contacted by the CSI regarding the delinquency, Respondent claimed she had made two lump sum payments in 2014, including the December payment. Respondent acknowledged she had made no payment since December.

7. As of September 21, 2015, DLI and CSI records show that Respondent made only one payment totaling \$610 toward the \$1,905 obligation since the execution of the Agreement, and Respondent has forwarded to the CSI no other copies of any further payments to the RERA.

8. For purposes of this new licensing action, the CSI alleges and incorporates by reference Allegations of Fact 1 through 13 and 15 through 22 of the Second Amended Notice, except that the CSI does not allege that Respondent was fined \$1,000 as stated in Allegation of Fact 13 Ex A.

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 a producer has violated an order of the Commissioner. § 33-17-1001(2)(c).
4. The Final Order is an order of the Commissioner § 33-1-314.
4. The Commissioner has grounds to revoke Respondent's license because she violated the Final Order in two separate respects:
 - a. failing to make monthly payments of \$110 to the RERA, and/or
 - b. failing to provide the CSI copies of monthly payments to the RERA.
4. Additionally, and alternatively, 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).
5. The Commissioner has grounds to revoke Respondent's license because she is incompetent, untrustworthy, financially irresponsible, and a source of injury and loss to the public for the reasons set forth in Conclusion of Law 4 of the Second Amended Notice; except that Respondent did not fail to pay a \$1,000 fine as stated in Conclusion of Law 4(d), because no such fine was levied. Ex A.

6. Additionally, and alternatively, the Commissioner may revoke an insurance producer's license when a producer attempts to obtain a license through misrepresentation or fraud, including but not limited to providing incorrect, misleading, incomplete, or materially untrue information in the license application. § 33-17-1001(1)(b).

7. The Commissioner has grounds to revoke Respondent's license because she provided misleading, incomplete, and materially untrue information in her license application when she indicated she had not been found liable in a lawsuit involving misappropriation or conversion of funds, or breach of fiduciary duty, even though a former client obtained a civil judgment against her relating to her work as a property manager

RELIEF REQUESTED

WHEREFORE, the CSI seeks the following relief:

That the Commissioner revoke Respondent's insurance producer license in accordance with § 33-17-1001(1)(b),(c), (f).

STATEMENT OF RIGHTS

You, COLLEEN M. BUZZELL, are entitled to a hearing to respond to this Notice, and to present evidence and arguments on all issues involved in this case. You may have a formal hearing before a hearing examiner appointed by the Commissioner as provided in the Montana Administrative Procedure Act, § 2-4-601 et seq.

You have a right to be represented by an attorney at any and all stages of this proceeding. If you wish to contest the allegations herein, you must make a written request for a hearing within 15 days of receipt of this notice to Nick Mazanec, Attorney, Office of the Montana State Auditor, Commissioner of Securities and Insurance, 840 Helena Avenue, Helena, MT 59601. If you request a hearing, you will be given notice of the date, time, and place of the hearing.

Should you request a hearing, you have the right to be accompanied, represented and advised by an attorney. If the counsel you choose has not been admitted to practice law in the state of Montana, he or she must comply with the Montana State Bar requirements for appearing *pro hac vice*, *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 Nick Mazanec, Office of the 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 written notice of your demand for a formal hearing within 15 days will result in the entry of a default order imposing any sanctions available under Montana law, without any additional 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 21st day of September, 2015.



NICK MAZANEC
Attorney for CSI