

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

IN THE MATTER OF:)	CASE NO INS 2015-271
)	
BEST RATES INSURANCE, INC ; BRENDA K. HANSON; and SIEGFRIED J. LIND,)	TEMPORARY ORDER TO CEASE
)	AND DESIST AND ORDER OF
)	SUMMARY SUSPENSION; and NOTICE
)	OF PROPOSED AGENCY ACTION AND
)	OPPORTUNITY FOR HEARING
)	
Respondents.)	
)	

TO: Brenda K. Hanson 141 W Washington St. Kalispell, MT 59901	Best Rates Insurance, Inc. 141 W. Washington St. Kalispell, MT 59901	Siegfried J. Lind 141 W. Washington St. Kalispell, MT 59901
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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 , sets forth the following allegations of fact, conclusions of law, order to cease and desist, and notice of right to a hearing. Additionally, the CSI is proposing to the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner), that she take specific action against Best Rates Insurance, Inc. (Best Rates); Brenda K. Hanson (Hanson); and Siegfried J. Lind (Lind) (collectively, Respondents) for violations of the Code. The Commissioner has authority to take such action under the provisions of §§ 33-1-102, 33-1-301, 33-1-317, 33-1-318.

33-1-1202, 33-1-1302, 33-17-1001, 33-17-1102, and 33-18-212. Service of process is pursuant to § 33-1-314.

ALLEGATIONS OF FACT

1. Best Rates is a Montana licensed insurance agency, # 737071. Its office is located at 141 West Washington Street, Kalispell, MT. The agency has been licensed since November 29, 2010. The agency is authorized to produce property, casualty, and surety insurance.

2. Hanson is a licensed Montana insurance producer, # 999610. She has been licensed since November 17, 2005. Hanson is authorized to produce property, casualty, and surety insurance.

3. Lind is an owner, in part or whole, of Best Rates. He is not a licensed Montana insurance producer

4. In 2010, the CSI entered into a consent agreement with Best Rates and Hanson related to a CSI investigation, in which the CSI alleged Hanson violated Mont. Code Ann. §§ 33-1-1202 and 33-17-1001(1)(f). Pursuant to the consent agreement, Best Rates and Hanson were required to pay a \$5,000 fine, and Best Rates' license was placed on formal probation for a period of 24 months. Additionally, Best Rates and Hanson were required on a quarterly basis to submit bank statements for the agency trust and operating accounts

5. On or about December 16, 2014, Hanson contacted the CSI Licensing Bureau. She reported several problematic issues relating to the agency. Hanson reported having a restraining order against Lind relating to a past assault. According to Hanson, Lind oversaw significant aspects of the agency's administration, including handling paperwork and banking. Hanson alleged Lind "locked her out" of the agency bank accounts, including the trust account.

6. On or about September 21, 2015, Hanson again contacted the CSI. She alleged Lind was stealing cash payments, and said she suspected this had been occurring since Best Rates' probationary period ended. She advised the CSI she was no longer listed on the Best Rates accounts, and so was not aware of the agency's financial situation.

7. Hanson subsequently provided the CSI bank statements for the Best Rates premium trust account for the months of June and August of 2015. The statements listed Best Rates and Lind as the account holders.

8. The trust account bank statements indicated the following irregularities. In June, the account had a negative balance on 12 occasions when insurers attempted electronic fund transfers from the account. In August, the account had a negative balance on 17 occasions when insurers attempted such transfers. As of August, the account had been charged \$528 in overdraft fees for 2015, and had a total of \$1,518 in returned item fees.

9. Best Rates customer J.B. spoke with the CSI regarding a business policy. J.B. made a down payment on a policy, and unearned premium on another cancelled policy was to have been transferred to the new policy. J.B. subsequently received a cancellation notice on the policy for nonpayment of premium. When asked, Hanson told J.B. that her "accountant" had not processed the transfer of premium correctly.

10. Best Rates customer B.B. also spoke with the CSI regarding a business policy. B.B. purchased a garage policy through the agency. B.B. paid a down payment of between \$800 and \$900, which cleared his bank account and was endorsed by Best Rates. He never received insurance cards. When B.B. repeatedly called Best Rates, no one answered and the voice mail message stated the mailbox was full. B.B. then contacted the policy broker, Cochrane Insurance

Agency (Cochrane), which advised him the policy was due to cancel for nonpayment of premium.

a. The CSI investigated B.B.'s account. Based upon conversations with Hanson and a Cochrane representative, the CSI determined the following occurred:

b. the down payment Cochrane pulled from Best Rates' trust account for B.B.'s policy had been returned for insufficient funds.

c. Cochrane advised that Best Rates never forwarded the policy underwriting paperwork to Cochrane.

d. it appears Best Rates and Hanson failed to execute a premium finance agreement with B.B. as required

e. Cochrane notified the CSI that garage policy identification cards are sent to the agent to forward to the insured.

11. On October 13, 2015, Hanson contacted CSI Investigator Bryan Stanley to report that Lind had recently stolen premium payment checks. Later in the day, Hanson and Lind together contacted Stanley. The two notified Stanley that they intended to sell Best Rates and had identified a buyer.

CONCLUSIONS OF LAW

- 1 The Commissioner has jurisdiction over this matter. § 33-1-311
2. The CSI administers the Code to protect insurance consumers. § 33-1-311(3).
3. All insurance premiums received by an insurance producer must be held in a separate trust account. The producer shall act as a fiduciary and shall account for and pay the insurance premiums the insurance producer receives to the insurer entitled to them. § 33-17-1102(1).

4. An insurance producer who purposely or knowingly diverts or misappropriates insurance premiums commits theft. § 45-6-301(6).

5. A person who purposely or knowingly is involved in the misappropriation or theft of insurance premiums or proceeds commits the offense of theft and deceptive practices as provided in §§ 45-6-301 and 45-6-317. § 33-1-1302(8).

6. The Commissioner may suspend or revoke an insurance producer's license when that person violates a provision of the Code. § 33-17-1001(1)(c).

7. The Commissioner may suspend or revoke an insurance producer's license when that person improperly withholds, misappropriates, or converts to his or her own use money belonging to policyholders or insurers and received in conduct of business under the license. § 33-17-1001(1)(d).

8. The Commissioner may suspend or revoke an insurance producer's license when that person is incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public. § 33-17-1001(1)(f).

9. A person may not willfully collect premium for insurance that is not in due course to be provided, subject to acceptance of the risk by the insurer. § 33-18-212(1).

10. Hanson violated §§ 33-17-1102(1), 33-17-1001(1)(c), and 33-17-1001(1)(f) when she:

a. failed to retain control over, and failed to ensure another individual licensed producer retained control over, the Best Rates trust account;

b. failed to notify the CSI and provide evidence of, or cease business operations upon suspicion that Lind was misappropriating premiums; and

c. permitted the Best Rates trust account to repeatedly reach a negative balance

11. Best Rates and Hanson violated §§ 33-1-1202(4), 33-1-1302(8), 33-17-1001(1)(c), 33-17-1001(1)(d), 33-17-1001(1)(f), 33-17-1102(1), and 45-6-301(6) when they failed to pay premiums to the insurers entitled to them.

12. Best and Hanson violated § 33-17-1001(1)(f) when they:

- a. failed to relay underwriting documentation to Cochrane;
- b. failed to provide a customer insurance cards; and
- c. failed to execute a premium finance agreement

13. Lind violated § 33-1-1302(8) when he knowingly misappropriated insurance premiums.

14. Best Rates, Hanson, and Lind violated § 33-18-212 when they willfully collected insurance premiums for coverage that was not in due course to be provided.

15. The proposed sale of Best Rates to another party at this time would violate § 33-17-1001(1)(f) because such a sale would transfer existing trust account issues, policyholder account issues, and other agency-related problems to a party unable to ascertain or verify the scope of the obligations and potential Code violations associated with the agency.

RELIEF REQUESTED

The CSI seeks the following additional relief:

1. Pursuant to § 33-17-1001(1)(c), (d), (f), revocation of the insurance producer licenses of Best Rates and Hanson;

2. Pursuant to § 33-1-317, imposition of a fine not to exceed the maximum allowable by law for each identifiable violation of the Code; and

3. Pursuant to § 33-1-318, a final cease and desist order with respect to the conduct that is the subject of the temporary cease and desist order, below; and

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3. Such other relief as the Commissioner deems appropriate.

DATED this 19th day of October, 2015.



NICK MAZANEC
Attorney for CSI

CEASE AND DESIST ORDER and ORDER OF SUMMARY SUSPENSION

Pursuant to § 33-1-318, it appears to the CSI that Respondents have engaged, are engaged, or are about to engage in acts or practices constituting violations of § 33-1-1302 and chapters 17 and 18 of the Code.

Therefore, it is hereby ORDERED that Respondents shall immediately cease and desist from engaging in further acts or practices constituting violations of § 33-1-1302 and chapters 17 and 18 of the Code.

It is further ORDERED that Respondents shall immediately cease and desist from selling, attempting to sell, or engaging in negotiations to sell all or any portion of Best Rates or its book of business.

It is further ORDERED that Lind shall immediately refrain from withdrawing or transferring funds from any bank account relating directly or indirectly to Best Rates, including the agency's trust and operations accounts. "Withdrawing or transferring funds" does not

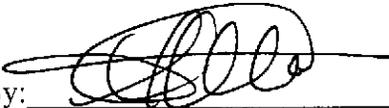
include an insurer conducting an electronic funds transfer for purposes of obtaining premium owed for a policy issued by that insurer.

Pursuant to Mont. Code Ann. § 2-4-613(3) and based on its reasonable cause finding on the allegations above, the CSI hereby determines that the public health, safety, and welfare requires immediate action in this matter, and:

IT IS THEREFORE ORDERED that the insurance producer licenses of Best Rates and Hanson are immediately and summarily suspended for an indefinite period of time pending further investigative and disciplinary proceedings.

DATED this 19 day of OCTOBER, 2015.

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

By: 

ANDREW POSEWITZ
Deputy State Auditor

PENALTIES

Pursuant to § 33-1-318, a violation of these Orders is a separate violation for which the CSI may impose a fine not to exceed \$5,000 per violation in addition to any other penalties imposed by law.

STATEMENT OF RIGHTS

You are entitled to a hearing to respond to these Orders and 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 document to:

Nick Mazanec, Attorney,
Office of the Montana State Auditor,
Commissioner of Securities and Insurance
840 Helena Avenue
Helena, MT 59601

The hearing shall then be held within 20 days of the CSI's receipt of the hearing request, unless the time is extended by agreement of the parties or by order of the hearing examiner. If you do not request a hearing and the CSI orders none, the Temporary Cease and Desist Order and Order of Summary Suspension shall become permanent, and the above allegations will be declared the findings of fact and the above conclusions of law will be declared the final conclusions of law. Additionally, failure to request a hearing 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.

Should you request a hearing, you have the right to be accompanied, represented, and advised by an attorney. If the attorney you choose has not been admitted to the practice of law in the state of Montana, she or he must comply with the Montana State Bar for appearing pro hac vice and the requirements of *Application of American Smelting and Refining Co.* (1973), 164 Mont. 139, 520 P.2d 103 and *Montana Supreme Court Commission on the Unauthorized Practice of Law v. O'Neil*, 2006 MT 284, 334 Mont. 311, 147 P.3d 200.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was sent to Respondents on the 19th day of October, 2015, by certified mail, at the following addresses:

Brenda K. Hanson
141 W. Washington St.
Kalispell, MT 59901

Best Rates Insurance, Inc.
141 W. Washington St.
Kalispell, MT 59901

Siegfried J. Lind
141 W. Washington St.
Kalispell, MT 59901

