

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

IN THE MATTER OF:)	
)	CASE NO. INS-2015-371
)	
UNIGARD INSURANCE COMPANY,)	FINAL AGENCY DECISION BY
)	DEFAULT and CEASE AND DESIST
)	ORDER
Respondent.)	

On January 7, 2016, the Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI), filed a Notice of Proposed Agency Action and Opportunity for Hearing (Notice) against Unigard Insurance Company (Respondent). The Notice alleged that Respondent violated Mont. Code Ann. §§ 33-18-224(1)(a)(ii) and (4).

Respondent did not answer or otherwise defend within 21 days of service of the Notice. On March 22, 2016, the CSI moved for entry of a final agency decision by default and cease and desist order against Respondent.

Based upon the CSI's motion and attached Affidavits of Nick Mazanec and Neil Brunett, and the record in this matter, the Commissioner of Securities and Insurance, Office of the Montana State Auditor (Commissioner), makes the following determinations:

8. Claim system notes of the discussion state that the claim representative “Reassigned [covered vehicle] to [Shop of Choice] J and C[.]” Respondent’s claim system identifies Yates as a non-Shop of Choice.

9. T.C. obtained an estimate from J & C Body Shop, and discussed the matter with Yates. A Yates employee subsequently contacted Respondent and advised that the practice of steering was illegal in Montana. Respondent then contacted T.C. and advised him that Yates could conduct the repairs.

10. The CSI received copies of claim comments from Respondent’s/QBE’s claim system. The comments related to claims associated with Yates and Capital Collision Center, another non-preferred Montana body shop. In both cases, the statements “***DO NOT USE***” or “***DO NOT USE!!!***” are indicated next to each shop’s name.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter pursuant to the Code.
2. An insurance company, including its adjusters, that issues or renews a policy of automobile insurance in Montana may not engage in any act or practice that intimidates, coerces, or threatens a claimant or that provides an incentive or inducement for a claimant to use a particular automobile body repair business or location. § 33-18-224(1)(a)(ii).
3. An insurance claimant may use a body shop at the claimant’s sole discretion, and the insurance company shall pay for the reasonable and necessary cost of the body shop repair services for covered damages, less any deductible under the terms of the policy. § 33-18-224(4).
4. Respondent is an “insurance company” for purposes of § 33-18-224(1)(a)(ii).
5. Respondent violated § 33-18-224(1)(a)(ii) when it coerced and threatened J.C., and induced him to use a particular body shop by:

a. advising T.C. that it would not pay the full value of a Yates repair claim if the cost of those repairs exceeded a Respondent-preferred body shop estimate, and

b. directing T.C. to use J & C Body Shop, a Respondent-preferred body shop.

6. Respondent violated § 33-18-224(4) when it informed T.C. that it would not cover the full value of a Yates repair claim if those repairs exceeded a Respondent-preferred body shop estimate, but Respondent did not demonstrate that a Yates repair claim would exceed the reasonable and necessary cost to repair the covered damages.

ORDER

Based on those findings of fact and conclusions of law, it is ORDERED that:

1. Respondent shall pay a fine of \$25,000 to the State of Montana within 30 days of the execution of this order.

2. Respondent shall CEASE and DESIST from engaging in further violations of § 33-18-224, including from:

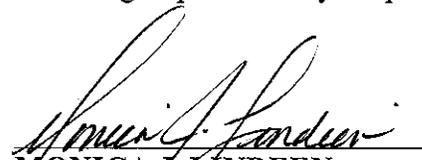
a. refusing, or advising claimants that it would refuse to pay the full value (minus deductible) of a repair claim from a non-preferred body shop, without demonstrating that the repair claim would exceed the reasonable and necessary cost to repair the covered damages;

b. intimidating, coercing, or threatening claimants;

c. requiring, incentivizing or inducing claimants to use a specific body shop; or

d. generating shop-specific claim system notes to advise Respondent's representatives to discourage or prohibit claimants from using a specific body shop.

DATED this 23rd of March, 2016.


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

In re: Unigard Insurance Company
Final Agency Decision by Default and
Cease and Desist Order