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Office of the Montana State Auditor
Commissioner of Securities and Insurance
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Attorney for the Department of Insurance

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

IN THE MATTER OF:)	CASE NO. INS-2016-112
)	
LAVERNE FRED BASS (Ins. Producer Lic. #740627),)	NOTICE OF PROPOSED AGENCY ACTION AND OPPORTUNITY FOR HEARING
)	
Respondent.)	
)	

TO: LAVERNE FRED BASS
2012 Virginia Lane
Billings, MT 59102

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. (Code), sets forth the following allegations of fact, conclusions of law, and notice of right to a hearing. The CSI is proposing the Montana State Auditor, Commissioner of Securities and Insurance (Commissioner), take specific action against LaVerne Fred Bass (Respondent) 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(3), 33-17-1001, and 33-18-208.

Service of process is pursuant to § 33-1-314.

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ALLEGATIONS OF FACT

1. Respondent is a licensed Montana insurance producer in the lines of life and disability. His individual insurance producer license is number 740627.
2. On or about March 23, 2016, the Respondent went to the home of Edith Ebert (Edith) in Miles City, Montana. Edith was and is an older person who suffers from dementia.
3. Due to Edith's dementia, she was and is unable to attend to her financial affairs, and her daughter Robin Leatherberry (Edith's daughter) was, and is, the primary decision maker for Edith's financial matters pursuant to a power of attorney.
4. Edith's daughter was not present at Edith's home when the Respondent visited her home on an insurance sales call on or about March 23, 2016.
5. Respondent solicited the sale of a life insurance policy with a \$3,000 death benefit to Edith and completed an application of insurance, purportedly on Edith's behalf.
6. Respondent checked "no" to the insurance application question relating to whether Edith had dementia.
7. When Respondent asked Edith for the payment of premium, she informed him that Edith's daughter handled her financial affairs and that she did not have access to her checking accounts.
8. Respondent then took Edith to her bank in order to get premium money for his sale of the policy.
9. The bank refused Respondent's request to be given a counter check or Edith's account number because the bank knew Edith to be suffering from dementia and that Edith's daughter managed Edith's financial matters.

10. According to a bank employee, Respondent was argumentative, and refused to acknowledge Edith's mental status.

11. According to a bank employee, Edith was disconnected the entire time she was at the bank with the Respondent and did not say anything, but looked around at her surroundings. Edith did not request her account number, or ask for a counter check.

12. The bank employee told the Respondent that he was being unethical.

13. Subsequently, Respondent returned Edith to her home and indicated that he would return the following morning in the presence of Edith's home health provider.

14. Edith's home health provider contacted Edith's daughter and informed her that Respondent had taken Edith to the bank, had brought her home, and was to going to return to Edith's home the following morning. When Edith's daughter asked Edith who drove her to the bank the previous day Edith could not remember, but thought that she was with a "religious" person who needed money.

15. Edith's daughter went to Edith's home the following morning, March 24, 2016.

16. When the Respondent arrived at Edith's home, Edith's daughter went outside to meet him at his car.

17. Edith's daughter informed Respondent that Edith did not need any more insurance, that Edith had dementia, and that she didn't think it was ethical for the Respondent to try to sell Edith insurance.

18. Edith's daughter asked the Respondent to leave the property, or she would call the police.

19. In turn, Respondent went to the police station to report Edith's daughter to the police.

20. The police told the Respondent to go to Adult Protective Services since he alleged exploitation of an older person.

21. Later, on the same day, Respondent went to the office of Adult Protective Services (APS) and reported that Edith's daughter was abusing Edith by refusing to let him sell Edith a life insurance policy

22. Respondent attempted to solicit APS to assist him in collecting premium for the life insurance policy he wanted to sell Edith stating that he deserved the commission on the sale.

23. After investigating the matter, APS became concerned that Respondent was exploiting Edith and would go to any length to make the sale.

24. APS concluded that Edith was a victim of attempted or possible exploitation and adult maltreatment at the hands of Respondent.

25. APS also concluded that Respondent exhibited unethical business practices to sell Edith an insurance policy, that Respondent harassed Edith in an effort to exploit her.

26. The following day, APS referred the matter to the CSI, and to the local police.

27. Unable to get the premium from Edith, the Respondent activated the insurance application by paying the first month premium, ninety seven dollars, with his own money in hope that the insurance company would continue to bill her.

28. On or about March 29, 2016, the insurance company sent Edith a cancellation letter based upon her "past medical history" and refunded the ninety seven dollars in premium.

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. A person commits the act of insurance fraud when the person presents a false application of insurance to an insurer. § 33-1-1202(3).

4. Respondent violated § 33-1-1202(3), when he submitted what purported to be Edith's application of insurance which did not indicate that Edith had dementia.

5. Respondent violated § 33-1-1202(3), when he submitted what purported to be Edith's application of insurance when he knew or should have known that Edith suffered from dementia and lacked the capacity to contract.

6. No person shall knowingly pay or give any rebate of premiums as inducement for life insurance or any valuable consideration or inducement not specified in the contract; or give anything of value whatsoever not specified in the contract. § 33-18-208(2), (4).

7. Respondent violated § 33-18-208(2), (4), when he paid the first month premium and activated a policy for Edith with his own personal funds.

8. The Commissioner may suspend or revoke an individual insurance producer license, may levy a civil penalty in accordance with § 33-17-1001, or may choose any combination of actions when a licensee has violated or failed to comply with a provision of the Code. § 33-17-1001(1)(c).

9. Pursuant to § 33-17-1001(1)(c), the Commissioner may suspend or revoke the Respondent's individual producer license if she finds that the Respondent violated or failed to comply with §§ 33-1202 and 33-18-208, as alleged above.

10. The Commissioner may suspend or revoke an individual insurance producer license, may levy a civil penalty in accordance with § 33-17-1001, or may choose any combination of actions when a licensee has in the conduct of the affairs under the license, used fraudulent, coercive, or

dishonest practices or was untrustworthy or a source of injury and loss to the public. § 33-17-1001(1)(f).

11. Pursuant to § 33-17-1001(1)(f), the Commissioner may suspend or revoke Respondent's individual producer license if she finds that Respondent used fraudulent, coercive, or dishonest practices, or was untrustworthy, or was a source of injury and loss to the public by attempting to exploit an older person who suffered from dementia, by submitting a false application of insurance, and by rebating premium.

12. The Commissioner may fine an insurance producer up to \$5,000, for each violation of the Code. § 33-1-317.

RELIEF REQUESTED

The CSI seeks the following relief:

1. Pursuant to § 33-17-1001(1)(c), (d), (f), suspension or revocation of Bass's individual insurance producer license;
2. Pursuant to § 33-1-317, imposition of a fine of up to \$5,000 for each violation of the Code; and
3. Such other relief as the Commissioner deems appropriate.

DATED this 30th day of August, 2016.



MIKE WINSOR
Attorney for the Department of Insurance

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 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 21 days of receipt of this document to:

Mike Winsor, 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 a reasonable time 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. 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.