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STATE AUDITORS OFFICE

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

| | | |
|-------------------|---|------------------------------|
| IN THE MATTER OF: |) | CASE NO. INS-2016-59 |
| |) | |
| ROBERT DeMARIA, |) | CONSENT AGREEMENT AND |
| |) | FINAL ORDER |
| Respondent. |) | |
| |) | |

This Consent Agreement and Final Order (Agreement) is entered into by the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), acting pursuant to the authority of the Montana Insurance Code (Mont. Code Ann. § 33-1-101, et seq.), and Robert DeMaria (Respondent).

RECITALS

WHEREAS, Respondent is not licensed as an individual insurance producer in Montana and was not licensed when the actions relevant to this case took place. Neither was SHBG Insurance Services, for whom Respondent was working, licensed as an insurance producer in Montana when the actions relevant to this case took place;

WHEREAS, Respondent was involved in November 2015, with the solicitation, sale, and placement of a surplus lines insurance policy for Collection Services Bureau, Inc. in Missoula, Montana, effective December 1, 2015, to December 1, 2016;

WHEREAS, Respondent charged Collection Services Bureau, Inc., an "agency fee" of \$250, which was repaid to Collection Services Bureau in June 2016;

WHEREAS, the CSI alleges that Respondent's actions with regard to the solicitation and sale of the policy described above constitutes a violation of Montana Code Annotated Sections 33-2-301(3)(p) and 33-2-305;

WHEREAS, the CSI alleges that Respondent's actions in charging a fee for its services as an insurance producer constitutes a violation of Montana Code Annotated Section 33-2-320. *See also* Mont. Code Ann. § 33-18-212; and

WHEREAS, the CSI and Respondents agree that the best interests of the public would be served by entering into this Agreement.

NOW, THEREFORE, in consideration of the mutual undertakings contained in this Agreement, the parties agree to settle this matter with the following terms and conditions:

STIPULATIONS AND CONSENTS

I. **Respondent** stipulates and consents to the following:

- A. Respondent admits that all recitals are true and correct;
- B. Within sixty (60) days of the execution of this Agreement, Respondent shall pay a fine/penalty of \$2,000. Payment shall be in the form of a cashier's check made to the Montana State Auditor, and sent to:

Montana State Auditor, Commissioner of Securities
and Insurance
c/o Darla Sautter, Legal Assistant
840 Helena Avenue
Helena, MT 59601;

C. Respondent shall thoroughly read, remain familiar with, and obey all laws and rules pertaining to the conduct of insurance producers in Montana;

D. Respondent shall obtain an insurance producer license in Montana;

E. Respondent fully and forever releases and discharges the CSI from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this Agreement;

F. Respondent specifically and affirmatively waives a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act (Mont. Code Ann. § 2-4-101 et seq.), and elects to resolve this matter on the terms and conditions set forth herein;

G. Respondent acknowledges that he was advised of the right to be represented by legal counsel and, if represented by legal counsel, that such legal representation was satisfactory; and

H. Respondent acknowledges that he has read and understands each term of this Agreement and that he enters into this Agreement voluntarily and without reservation.

II. All parties to this Agreement stipulate and consent as follows:

A. The CSI has jurisdiction over the subject matter of this Agreement;

B. This Agreement resolves the alleged violations set forth in the Recitals. The CSI warrants and represents that so long as Respondent complies with the terms of this Agreement, the CSI will not bring any further action against Respondent arising from facts known to the CSI regarding the Recitals as of the date of the Agreement;

C. This Agreement is entered without adjudication of any issue, law, or fact. It is entered solely for the purpose of resolving the CSI's investigation and allegations, and is not intended to be used for any other purpose;

D. In the event Respondent violates any of the terms of this Agreement within two years from the date of execution of this Agreement, the CSI may engage in further regulatory action, including administrative penalties;

E. This Agreement constitutes the entire agreement between the parties and no other promises or agreements, either express or implied, have been made by the CSI or by any member, officer, agent, or representative of the CSI to induce Respondent to enter into this Agreement. This Agreement may not be modified orally, and any subsequent modifications to this Agreement must be mutually agreed upon in writing to be effective;

F. This Agreement shall be incorporated into and made part of the attached Final Order issued by the Commissioner;

G. This Agreement is considered executed and shall be effective upon signing of the attached Final Order; and

H. This Agreement is a public record under Montana law and as such may not be sealed or otherwise withheld from the public.

DATED this 6th day of September, 2016.

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

By: Barbara C. Harris

BARBARA C. HARRIS

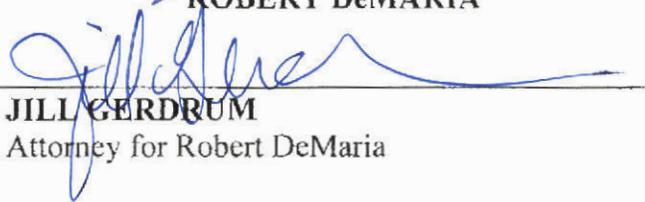
Attorney for the CSI

DATED this 30 day of August, 2016.



ROBERT DeMARIA

Approved as to content:



JILL GERDRUM
Attorney for Robert DeMaria

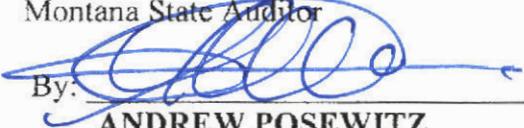
FINAL ORDER

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and Mont. Code Ann. § 33-1-101, et seq., and upon review of the foregoing Consent Agreement, and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the Office of the Commissioner of Securities and Insurance, Montana State Auditor, and Robert DeMaria, is adopted as if set forth fully herein.

DATED this 10 day of SEPTEMBER, 2016.

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

By: 

ANDREW POSEWITZ
Deputy State Auditor

cc: Barbara C. Harris
Jill Gerdrum