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Attorney for the Commissioner of Securities and Insurance

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

In the Matter of the Proposed Agency
Action Against Shawn Garrette Pocha

Case No. INS-2022-196

**NOTICE OF PROPOSED AGENCY
ACTION AND OPPORTUNITY
FOR HEARING**

TO: Shawn Garrette Pocha
1403 S Assembly St., B401
Spokane, WA 99224

The Commissioner of Securities and Insurance, Office of the Montana State Auditor, (“Commissioner” or “CSI”) has cause to believe that Shawn Garrette Pocha (“Respondent”) has violated the Montana Insurance Code, §§ 33-1-101, *et seq.*, MCA. The Commissioner proposes a fine of \$500.00 for administrative insurance fraud. The Commissioner has the authority to take these actions under §§ 33-1-311, 33-1-317, 33-1-1202, 33-1-1211, 33-1-1302, MCA, and as more fully described below. The following is a proposed agency action. Acceptance of CSI’s

proposed action will resolve this matter and it will be deemed a Final Agency Action based on the facts and law set out below. If Respondent chooses not to accept the proposed action, he may demand an administrative hearing, but that demand must be in writing and received by the Commissioner within 24 days of the date this Notice, as described in the Statement of Rights below.

FACTUAL ALLEGATIONS

1. During the period of time at issue in this matter, Respondent was a resident of Montana, residing at 2380 S 13th Ave., Bozeman, MT 59715.

2. During the period of time at issue in this matter, Respondent was the owner of a 2015 Ford Mustang. This vehicle was insured by GEICO Insurance Company (“GEICO”) from December 17, 2021 until January 29, 2022, when the policy was cancelled for non-payment.

3. On February 5, 2022, at approximately 1:00 p.m., Respondent was driving the Mustang northbound on Highway 141 approximately 20 miles south of Helmville, Montana.

4. At that time, Respondent hit a patch of ice and slid off the road into a ditch, resulting in damage to the Mustang.

5. On February 5, 2022, at 2:43 p.m., Respondent reinstated his GEICO policy.

6. On February 6, 2022, Respondent submitted an online claim to GEICO, reporting that the subject accident had occurred at 5:30 p.m. the day prior.

7. On February 9, 2022, GEICO Investigator Jeff Roderick called and spoke with Respondent regarding the subject accident, and Respondent expressly admitted that the accident actually occurred at approximately 1:00 p.m. on February 5, 2022, not at 5:30 p.m. as he previously reported, and that the Mustang was not insured at the time of the accident. The conversation in which Respondent admitted to providing false information to GEICO in submitting his claim was audio recorded with his knowledge and consent.

8. GEICO denied Respondent's claim because the Mustang was not insured at the time of the loss.

9. On May 2, 2022, Respondent voluntarily spoke with CSI Investigator Amber Treat and again admitted to submitting false information in his claim to GEICO. This conversation was also audio recorded with Respondent's knowledge and consent.

ASSERTIONS OF LAW

1. The Commissioner takes this action under the authority granted to him by the Montana Insurance Code (§ 33-1-101, MCA, et seq.), which authorizes the Commissioner to act in protection of insurance consumers and in the public interest.

2. After following the procedures provided by § 33-1-701, MCA and upon a finding by the Commissioner that a violation of the Montana Insurance Code has

occurred, the Commissioner may impose a fine of up to \$25,000 upon a person who violates § 33-1-1202(3), MCA. *See* § 33-1-317, MCA.

3. A person commits the act of administrative insurance fraud under § 33-1-1202(1), MCA when the person causes a written or oral statement to be presented to an insurer for the purpose of obtaining money or another benefit that contains false, incomplete, or misleading information regarding a fact material to a claim for payment or other benefit under the policy.

4. Respondent committed insurance fraud on February 6, 2022, by knowingly and intentionally presenting materially false information regarding the time of the subject accident when he submitted his insurance claim to GEICO.

PROPOSED AGENCY ACTION

The Commissioner in his discretion, considering the gravity, number of offenses, and financial loss involved, and to protect the public health, safety, and welfare, and after a hearing conducted under § 33-1-701, MCA, proposes a fine of \$500.00.

STATEMENT OF RIGHTS

Respondent is entitled to contest the Commissioner's proposed action by requesting an administrative hearing. To do so, within 24 days of the date this Notice, Respondent must submit a hearing request in writing to Andrew Cziok, 840 Helena Avenue, Helena, MT 59601 or CSI.LegalService@mt.gov. A hearing

request “must specify the grounds relied upon as a basis for the relief sought at the hearing.” M.C.A. § 33-1-701. It may also include a response to the allegations set forth above. If a hearing is requested, Respondent will be provided notice of the time, place, and nature of the hearing. Respondent will be entitled to attend this hearing and respond and present evidence and arguments on all issues involved in this action.


Administrative hearings are conducted by an impartial hearing examiner appointed by the Commissioner under the provisions of the Montana Administrative Procedures Act. Formal proceedings may be waived pursuant to § 2-4-603, MCA. Respondent has the right to be represented by an attorney at any and all stages of this proceeding.

POSSIBILITY OF DEFAULT

Failure to timely provide a written hearing request shall result in the entry of a default order imposing the Commissioner's proposed action, without additional notice, pursuant to Montana Administrative Rule 1.3.214.

DATED September 19, 2022

By: _____


Andrew J. Cziok, Legal Counsel
Commissioner of Securities and Insurance
Office of the Montana State Auditor

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing
Notice of Proposed Agency Action to be mailed to:

Shawn Garrette Pocha
1403 S Assembly St., B401
Spokane, WA 99224

DATED: September 19, 2022

Brandy Monrizer