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

IN THE MATTER OF DENT SOURCE, LLC, Respondent.	Case No. INS-2022-00294 **FINAL AGENCY ACTION AND DEFAULT ORDER**

On August 18, 2022, counsel for the Commissioner of Securities and Insurance, Office of the Montana State Auditor ("Commissioner"), served a Notice of Proposed Agency Action and Opportunity for Hearing ("NOPAA") on Dent Source, LLC ("Respondent") by US Mail with tracking capability.

The NOPAA was delivered August 22, 2022. A copy of the tracking receipt is attached and marked as Exhibit A. A copy of the NOPAA is attached as Exhibit B. The NOPAA provided Respondent an opportunity for an administrative hearing if requested within 24 days of the date of the NOPAA. The deadline for Respondent to request an administrative hearing to challenge the NOPAA was September 11, 2022. The NOPAA warned that failure to respond and request a hearing by the deadline would result in a default order.

Therefore, a default order will issue, since Respondent has failed to request an administrative hearing. Mont. Admin. R. 1.3.214. The Commissioner considered the evidence and exhibits and makes the following determinations:

FINDINGS OF FACT

1. Respondent is a limited liability company organized under the laws of Montana. Respondent is engaged in the business of automobile repair operating out of two

business locations. Respondent's physical locations are at 354 South Billings Boulevard Billings, Montana 59101, and 8030 MT 35 Bigfork, Montana 59911. Respondent is engaged in the business of paint-less dent repairs for automobiles. Lindsey Caraker is Respondent's Registered Agent, and Michael Caraker is listed as a member of Respondent. Michael Caraker operates a business in Oklahoma that is similar to Respondent.

2. On or about July 21, 2022, Duane Emerson contacted the CSI regarding several paint-less dent repair shops waiving the comprehensive deductible for customers. Mr. Emerson included photos of Facebook advertisements and messages by Respondent. Respondent states that they waive deductibles and are located in Bigfork.

3. On or about August 2, 2022, CSI Investigator Bryan Stanley contacted Mr. Emerson. Mr. Emerson advised various paint-less dent repair businesses arrived from outside of Montana after a hailstorm occurred on July 18, 2022. Mr. Emerson advised the businesses, like Respondent, advertise the waiver of the deductible on Facebook and through other methods.

4. Investigator Stanley reviewed Respondent's website which is listed on Respondent's Articles of Organization filed with the Montana Secretary of State. Respondent's website did not directly advertise a waiver for the deductible, but the website did mention a deductible assistance program. The website also advertised Respondent being located at the same addresses and phone numbers as Respondent.

5. Investigator Stanley located Respondent's Facebook page. Investigator Stanley found posts made by Respondent on July 16 and July 24 stating Respondent would waive customers' deductibles at both of Respondent's locations. Investigator Stanley also located several comments made by Respondent to potential customers. In these comments Respondent stated that deductibles would be waived, or Respondent would provide the customer with a coupon towards the deductible.

6. On or about August 4, 2022, Investigator Stanley called the phone number listed on Respondent's Facebook posts and website. Investigator Stanley spoke with an unidentified woman. The woman advised she believed the owner of Respondent, Michael

Caraker, is responsible for Respondent's advertising, and that Mr. Caraker resides in Oklahoma. The woman said she would text Mr. Caraker and ask him to call Investigator Stanley. As of August 9, 2022, Investigator Stanley has not received a call from Mr. Caraker.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter pursuant to Mont. Code Ann. §§ 30-14-225 and 33-1-311.

2. The Commissioner is tasked with enforcement of the Montana Insurance Code, including the prohibition on the advertisement, promise to provide, or offer of any coupon, credit, or rebate to pay all or part of an insurance deductible under a casualty or property insurance policy, and the Insurance Fraud Protection Act, Mont. Code Ann. §§ 30-14-225 and 33-1-1201, *et seq*.

3. "A person engaged in the sale, repair, or replacement of automobile glass or in the business of automobile repair may not advertise, promise to provide, or offer any coupon, credit, or rebate to pay all or part of an insurance deductible under a casualty or property insurance policy, including any incentive to purchase automobile glass or automobile repairs offered to the customer in which the customer, in conjunction with the purchase of automobile glass or automobile repairs, receives cash or other valuable consideration." Mont. Code Ann. § 30-14-225(1)(a).

4. Upon a determination that a person has violated the Montana Insurance Code, the Commissioner has authority to fine such person up to $25,000 per violation pursuant to Mont. Code Ann. § 33-1-317 and 33-1-1211.

5. Here, on or about July 16, 2022, and continuing through July 24, 2022, Respondent engaged in the business of automobile repair and advertised or offered a coupon, credit, or rebate to pay all or part of an insurance deductible under a casualty or property insurance policy. This conduct constitutes a prohibited practice under Mont. Code Ann. § 30-14-225.

ORDER

THEREFORE, based on the foregoing findings of fact and conclusions of law, it is hereby ORDERED that:

1. Respondent shall pay a fine of $1,000 to the State of Montana within 30 days of the date of this Order. Payment must be made by check or money order payable to the State of Montana.

2. Payment shall be sent to the Commissioner of Securities and Insurance, Office of the Montana State Auditor, Attn: Brandy Morrison, Paralegal, 840 Helena Avenue, Helena, MT 59601.

DATED this 15th day of September, 2022.

TROY DOWNING
Commissioner of Securities & Insurance,
Office of the Montana State Auditor

CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2022, I caused a copy of the foregoing, *Final Agency Action and Default Order*, to be served on the following persons by the following means:

X Mail
_____ E-Mail

Lindsey Caraker
Dent Source, LLC
8030 MT 35
Bigfork, Montana 59911

Brandy Morrison

BRANDY MORRISON
Paralegal

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Track Another Package +

Tracking Number: 9114902200852051893090

Remove ×

Your item was delivered in or at the mailbox at 5:21 pm on August 22, 2022 in BIGFORK, MT 59911.

USPS Tracking Plus® Available

Delivered, In/At Mailbox

August 22, 2022 at 5:21 pm
BIGFORK, MT 59911

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Tracking History

August 22, 2022, 5:21 pm
Delivered, In/At Mailbox
BIGFORK, MT 59911
Your item was delivered in or at the mailbox at 5:21 pm on August 22, 2022 in BIGFORK, MT 59911.

August 20, 2022, 7:16 pm
Departed USPS Regional Facility
MISSOULA MT DISTRIBUTION CENTER

EXHIBIT
A

August 20, 2022, 6:43 pm
Arrived at USPS Regional Facility
MISSOULA MT DISTRIBUTION CENTER

August 19, 2022, 10:16 pm
Arrived at USPS Regional Facility
GREAT FALLS MT DISTRIBUTION CENTER

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FAQs

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Commissioner of Securities & Insurance,
Office of the Montana State Auditor
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Helena, MT 59601
Phone: (406) 444-2040
Fax: (406) 444-3497
Email: kevin.bratcher@mt.gov
E-Service: CSILegalService@mt.gov

Counsel for the Commissioner of Securities and Insurance

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

IN THE MATTER OF DENT SOURCE, LLC, Respondent.	Case No. INS-2022-00294 **NOTICE OF PROPOSED AGENCY ACTION AND OPPORTUNITY FOR HEARING**

TO: Lindsey Caraker
Dent Source, LLC
354 S Billings Boulevard
Billings, MT
59101

The Commissioner of Securities and Insurance, Office of the Montana State Auditor ("Commissioner" or "CSI"), has cause to believe that Dent Source, LLC ("Respondent") has violated the Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.* The Commissioner proposes to levy a $1,000.00 fine. The Commissioner has the authority to undertake this action pursuant to the Montana Insurance Code, including Mont. Code Ann. §§ 33-1-311, 33-1-317, 30-14-225 and 33-1-1211.

Acceptance of the penalty 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 penalty, an administrative hearing must be requested; that request 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. Failure to timely request a hearing can result in entry of a default order as stated in the Possibility of Default section below.

FACTUAL ALLEGATIONS

1. Respondent is a limited liability company organized under the laws of Montana. Respondent is engaged in the business of automobile repair operating out of two business locations. Respondent's physical locations are at 354 South Billings Boulevard Billings, Montana 59101, and 8030 MT 35 Bigfork, Montana 59911. Respondent is engaged in the business of paint-less dent repairs for automobiles. Lindsey Caraker is Respondent's Registered Agent, and Michael Caraker is listed as a member of Respondent. Michael Caraker operates a business in Oklahoma that is similar to Respondent.

2. On or about July 21, 2022, Duane Emerson contacted the CSI regarding several paint-less dent repair shops waiving the comprehensive deductible for customers. Mr. Emerson included photos of Facebook advertisements and messages by Respondent. Respondent states that they waive deductibles and are located in Bigfork.

3. On or about August 2, 2022, CSI Investigator Bryan Stanley contacted Mr. Emerson. Mr. Emerson advised various paint-less dent repair businesses arrived from outside of Montana after a hailstorm occurred on July 18, 2022. Mr. Emerson advised the businesses, like Respondent, advertise the waiver of the deductible on Facebook and through other methods.

4. Investigator Stanley reviewed Respondent's website which is listed on Respondent's Articles of Organization filed with the Montana Secretary of State. Respondent's website did not directly advertise a waiver for the deductible, but the website did mention a deductible assistance program. The website also advertised Respondent being located at the same addresses and phone numbers as Respondent.

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located several comments made by Respondent to potential customers. In these comments Respondent stated that deductibles would be waived, or Respondent would provide the customer with a coupon towards the deductible.

6. On or about August 4, 2022, Investigator Stanley called the phone number listed on Respondent's Facebook posts and website. Investigator Stanley spoke with an unidentified woman. The woman advised she believed the owner of Respondent, Michael Caraker, is responsible for Respondent's advertising, and that Mr. Caraker resides in Oklahoma. The woman said she would text Mr. Caraker and ask him to call Investigator Stanley. As of August 9, 2022, Investigator Stanley has not received a call from Mr. Caraker.

ASSERTIONS OF LAW

7. The Commissioner has jurisdiction over this matter pursuant to Mont. Code Ann. §§ 30-14-225 and 33-1-311.

8. The Commissioner is tasked with enforcement of the Montana Insurance Code, including the prohibition on the advertisement, promise to provide, or offer of any coupon, credit, or rebate to pay all or part of an insurance deductible under a casualty or property insurance policy, and the Insurance Fraud Protection Act, Mont. Code Ann. §§ 30-14-225 and 33-1-1201, *et seq*.

9. If, after conducting a hearing under Mont. Code Ann. § 33-1-701, the Commissioner determines that a person has violated Mont. Code Ann. § 30-14-225(1)(a), the Commissioner may impose a penalty. Mont. Code Ann. §§ 33-1-317 and 33-1-1211. That penalty can be a civil fine up to $ 25,000. Mont. Code Ann. § 33-1-317.

10. "A person engaged in the sale, repair, or replacement of automobile glass or in the business of automobile repair may not advertise, promise to provide, or offer any coupon, credit, or rebate to pay all or part of an insurance deductible under a casualty or property insurance policy, including any incentive to purchase automobile glass or automobile repairs offered to the customer in which the customer, in conjunction with the

purchase of automobile glass or automobile repairs, receives cash or other valuable consideration." Mont. Code Ann. § 30-14-225(1)(a).

11. Here, on or about July 16, 2022, and continuing through July 24, 2022, Respondent engaged in the business of automobile repair and advertised or offered a coupon, credit, or rebate to pay all or part of an insurance deductible under a casualty or property insurance policy. This conduct constitutes a prohibited practice under Mont. Code Ann. § 30-14-225.

PROPOSED AGENCY ACTION

WHEREFORE, the Commissioner proposes to order the following:

1. A fine in the amount of $1,000.00 to the State of Montana pursuant to Mont. Code Ann. §§ 30-14-225, 33-1-317 and 33-1-1211.

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 written hearing request to CSI at 840 Helena Avenue, Helena, MT 59601 or CSILegalService@mt.gov. A hearing request may, but does not have to, 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.

Respondent has the right to retain legal counsel to represent, accompany, and advise them at any and all stages of this proceeding or may also elect to represent themselves; however, a business entity may not appear on its own behalf or through an agent other than an attorney licensed to practice law. Admin. R. Mont. 1.3.231.

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 Mont. Code Ann. § 2-4-603.

CONTACT WITH COMMISSIONER'S OFFICE

If there are questions or concerns, please contact CSI at 406-444-2040 or CSILegalService@mt.gov. If represented by an attorney, please ensure this contact is made by the attorney.

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 Admin. R. Mont. 1.3.214.

DATED this 18 day of August, 2022.

KEVIN BRATCHER
Counsel for Commissioner of Securities & Insurance

CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2022, I caused a copy of the foregoing, *Notice of Proposed Agency Action and Opportunity For Hearing*, to be served on the following persons by the following means:

1, 2 Mail
_____ E-Mail

1. Lindsey Caraker
   Dent Source, LLC
   354 S Billings Boulevard
   Billings, MT 59101

2. Lindsey Caraker
   Dent Source, LLC
   8030 MT 35
   Bigfork, Montana 59911

BRANDY MORRISON
Paralegal