

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

IN THE MATTER OF

Hail Repair A1 LLC, dba A 1 Hail Repair
LLC,

Respondent.

Case No. INS-2022-00296

**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 Hail Repair A1 LLC, dba A 1 Hail Repair 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 the State of Arizona. Respondent is owned and managed by Eric Melendez and Rene Pinedo. Respondent's principal place of business is located at 236 South Scott Avenue #140 Tucson, Arizona 85701. Respondent has a second office located at 3300 South Texas Boulevard Bryan, Texas 77802. Respondent is engaged in the business of automobile repair by performing paint-less dent repair to automobiles. Respondent was doing business as "A 1 Hail Repair LLC" in Montana at times relevant to this matter.

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 made by Respondent. Respondent states that they pay deductibles for their customers, and are located at 2505 US Highway 2 East Kalispell, Montana 59901.

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 searched for "A 1 Hail Repair LLC" on Facebook. Investigator Stanley located Respondent's Facebook page which contained a link to Respondent's website. Investigator Stanley also located a post made by Respondent dated July 17, 2022. The post stated Respondent worked with all insurance companies and would pay the customer's deductible. The post stated Respondent was located at 2505 US Highway 2 East Kalispell, Montana 59901, and the post was directed at Montana residents in Kalispell and Evergreen.

5. On or about August 3, 2022, Investigator Stanley called Respondent at the phone number listed on Respondent's Facebook page and website. Investigator Stanley left

a voicemail requesting a return phone call. Investigator Stanley did not receive a phone call from Respondent by the time Investigator Stanley concluded his investigation.

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 17, 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:

6. 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.

7. 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

Eric Melendez and Rene Pinedo
Hail Repair A1 LLC
236 S Scott Ave #140
Tucson, AZ 85701



BRANDY MORRISON
Paralegal

Track Another Package +

Tracking Number: 9114902200852051893113

Remove X

Your item was delivered in or at the mailbox at 4:12 pm on August 22, 2022 in TUCSON, AZ 85701.

USPS Tracking Plus® Available ∨

✓ Delivered, In/At Mailbox

August 22, 2022 at 4:12 pm
TUCSON, AZ 85701

Get Updates ∨

Feedback

Text & Email Updates

Tracking History

August 22, 2022, 4:12 pm

Delivered, In/At Mailbox
TUCSON, AZ 85701

Your item was delivered in or at the mailbox at 4:12 pm on August 22, 2022 in TUCSON, AZ 85701.

August 22, 2022, 4:28 am

Departed USPS Regional Facility
TUCSON AZ DISTRIBUTION CENTER

August 21, 2022, 4:22 pm

Arrived at USPS Regional Facility



TUCSON AZ DISTRIBUTION CENTER

August 20, 2022
In Transit to Next Facility

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

USPS Tracking Plus®	▼
Product Information	▼

See Less ^

Feedback

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Go to our FAQs section to find answers to your tracking questions.

FAQs

KEVIN BRATCHER

Legal Counsel

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

Hail Repair A1 LLC, dba A 1 Hail Repair
LLC,

Respondent.

Case No. INS-2022-00296

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

TO: Eric Melendez and Rene Pinedo
Hail Repair A1 LLC
236 S Scott Ave #140
Tucson, AZ 85701

The Commissioner of Securities and Insurance, Office of the Montana State Auditor ("Commissioner" or "CSI"), has cause to believe that Hail Repair A1 LLC, dba A 1 Hail Repair 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 the State of Arizona. Respondent is owned and managed by Eric Melendez and Rene Pinedo. Respondent's principal place of business is located at 236 South Scott Avenue #140 Tucson, Arizona 85701. Respondent has a second office located at 3300 South Texas Boulevard Bryan, Texas 77802. Respondent is engaged in the business of automobile repair by performing paint-less dent repair to automobiles. Respondent was doing business as "A 1 Hail Repair LLC" in Montana at times relevant to this matter.

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 made by Respondent. Respondent states that they pay deductibles for their customers, and are located at 2505 US Highway 2 East Kalispell, Montana 59901.

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ASSERTIONS OF LAW

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

7. 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.*

8. 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.

9. "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).

10. Here, on or about July 17, 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, 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

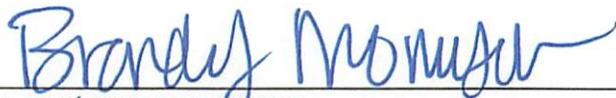
CERTIFICATE OF SERVICE

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. Eric Melendez and Rene Pinedo
Hail Repair A1 LLC
236 S Scott Ave #140
Tucson, AZ 85701

2. Eric Melendez and Rene Pinedo
Hail Repair A1 LLC
3300 S. Texas Blvd
Bryan, TX 77802



BRANDY MORRISON

Paralegal