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Attorney for Respondents

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

In the Matter of the Proposed Agency
Action Against Code Blue LLC and
Accuserve Solutions Inc.,

Respondents.

Case No. INS-2022-316

**CONSENT AGREEMENT AND
FINAL ORDER**

This Consent Agreement (Agreement) and Final Order (Order) are entered into by the Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI) acting pursuant to the authority of the Montana Insurance Code, § 33-1-101 *et seq.*, MCA, and Code Blue LLC and Accuserve Solutions Inc. (Respondents).

RECITALS

WHEREAS CSI alleges that Respondents have been adjusting insurance claims in Montana without a license to do so;

WHEREAS, CSI alleges that Respondents' actions in investigating and negotiating settlement of insurance claims relating to homeowners' water losses makes it an adjuster under § 33-17-102(1)(a), MCA, but Respondents do not have an adjuster license under § 33-17-301, MCA;

WHEREAS, the CSI believes that the best interests of the public would be served by entering into this Agreement;

WHEREAS Respondent disputes that it is an "adjuster" under Montana law, that it has been adjusting insurance claims in Montana without a license and that it has been investigating and negotiating settlement of insurance claims relating to homeowners' water losses;

WHEREAS Respondent wishes to resolve this matter without further litigation or expense;

NOW, THEREFORE, in consideration of the mutual undertakings contained in this Agreement, CSI and Respondent hereby agree to settle this matter as follows:

STIPULATIONS AND CONSENTS

I. Without admitting to any of CSI's allegations in the Notice of Proposed Agency Action (NOPAA) dated May 12, 2023, Respondents stipulate and consent as follows:

A. Respondents stipulate and agree jointly or severally to pay a fine in the total amount of \$35,000. Respondent will pay the fine on or before July 30, 2023.

B. The payment shall be sent to the Commissioner of Securities and Insurance, Office of the Montana State Auditor, Attn: Brandy Morrison, Paralegal, 840 Helena Ave, Helena, MT 59601.

C. Respondents further agree to obtain either adjuster licenses under § 33-17-301, MCA, for its employees or independent contractors who review contractor invoices, or register as an administrator under § 33-17-603, MCA, on or before July 30, 2023.

D. Respondents agree to conduct annual training for all employees who have contact with consumers or contractors in Montana. This training will address the prohibitions on Unfair Trade Practices set forth in Title 33, Chapter 18, Montana Code Annotated;

E. Respondents fully and forever release and discharge CSI and all of CSI's employees and agents 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 CSI's allegations in the Notice of Proposed Agency Action.

F. CSI fully and forever releases and discharges Respondent and all of Respondents' employees and agents from any and all actions, claims, causes of

action, demands, or expenses for damages or injuries, relating to Respondent's conduct alleged in the NOPAA dated May 12, 2023.

G. Respondents specifically and affirmatively waive a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act, § 2-4-101 *et seq.*, MCA, and elects to resolve this matter on the terms and conditions herein.

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

A. CSI has jurisdiction over Respondents and the subject matter of this matter pursuant to § 33-1-101 *et seq.*, MCA.

B. CSI agrees not to pursue further civil or administrative action against Respondents regarding CSI's allegations asserted in this matter for so long as Respondents comply with the terms of this Agreement.

C. This Agreement is entered without adjudication of any issue, law, or fact. It is entered into solely for the purpose of resolving CSI's allegations and is not intended to be used for any other purpose. For any person or entity not a party to this Agreement, this Agreement does not limit or create any private rights or remedies against Respondents, limit or create liability of Respondents, or limit or create defenses for Respondents to any claims.

D. The applicable statute of limitations, set forth in § 33-1-707, MCA, is tolled until final payment under this Agreement with regard to the allegations asserted in this matter. In the event Respondents fail to comply with the terms of this Agreement at any time during the tolling period, CSI may pursue additional

administrative action against Respondents.

E. This Agreement constitutes the entire agreement between CSI and Respondents, and no other promises or agreements, either express or implied, have been made by CSI or by any member, officer, agent, or representative of CSI to induce Respondents to enter into this Agreement.

F. This Agreement may not be modified orally, and any subsequent modifications to this Agreement must be mutually agreed upon in writing to be effective.

G. This Agreement will be incorporated into and made a part of the attached Final Order issued by the Commissioner.

H. This Agreement shall be effective upon signing of the Final Order. CSI has jurisdiction over the enforcement of the Final Order. Failure to comply with the Final Order may constitute separate violations and may result in subsequent legal actions by CSI.

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

THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK

By signing this agreement, I agree to be bound by the terms of the agreement

DATED this 14th day of July 2023.



CODE BLUE LLC
Respondent

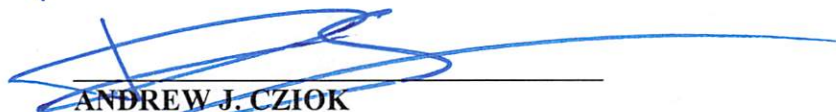
By: Reid Schellhaus
Its: CFO



ACCUSERVE SOLUTIONS INC.
Respondent

By: Reid Schellhaus
Its: CFO

DATED this 21st day of July 2023.



ANDREW J. CZIOK
Legal Counsel for CSI

FINAL ORDER

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

IT IS HEREBY ORDERED that the foregoing Consent Agreement between CSI and Respondent is adopted as a Final Order if set forth fully herein.

DATED this 21st day of July, 2023.



TROY DOWNING

Commissioner of Securities and Insurance,
Office of the Montana State Auditor